CEQA ADDENDUM

Mitigated Negative Declaration No. EA06-0005 for South Main Street Residential Project
(1201 S. Main Street)

October 12, 2011

City of Milpitas
Planning Division
455 E. Calaveras Boulevard
Milpitas, CA 95008

Staff contact: Sheldon S. Ah Sing, Senior Planner, (408) 586.3278

SUMMARY OF THIS DOCUMENT

This addendum assesses the environmental impact(s) of changing the scope of the development in association with the project located at 1201 South Main Street (APN: 086-16-100), as required by the California Environmental Quality Act (CEQA) (California Public Resources Code 21000 et seq.) and in compliance with the State CEQA Guidelines (14 California Code of Regulations 15000 et seq.).

The City of Milpitas, as the lead agency under CEQA, will consider the potential environmental impacts of changing the scope of the project listed above when it considers the project in its entirety. This Addendum is an informational document, intended to be used in the planning and decision making process as provided for under Section 15164 of the CEQA Guidelines. The Addendum does not recommend approval or denial of the proposed refinements to the Project. The fundamental conclusion of this addendum is that the proposed changes to the Project will not result in new significant impacts nor substantially increase the severity of previously disclosed impacts beyond those already identified in the Mitigated Negative Declaration EA06-0005. Thus, a subsequent or supplemental Negative Declaration need not be prepared.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under CEQA Guidelines Section 15164, an addendum to an adopted negative declaration shall be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent negative declaration or Environmental Impact Report (EIR) has occurred. Under Section 15162, the lead agency shall prepare an (EIR) if there are any new significant environmental effects associated with the refined project. With respect to the Project, the refinements are only minor technical changes and do not result in any new significant environmental effect(s); therefore, the refined Project does not require an EIR. Therefore, this addendum analyzes the Project refinements as required under the CEQA Guidelines, Sections 15162 and 15164.

BACKGROUND

In 2007, the project site was granted approval for a multi-family housing development consisting of 126 condominium units and 2,800 square feet of commercial space on approximately 2.75 acres. The project obtained a variety of planning approvals such as site and architectural, general

plan, zoning change and specific plan amendment. A Mitigated Negative Declaration No. EA06-0005 was drafted to analyze the potential environmental impacts resulting from development of the project.

UPDATED PROJECT DESCRIPTION

The previous project's entitlements have since expired and a new proposal was submitted by a different proponent that included a change in scope of the project. The new proposal merely implements minor modifications to the project by increasing residential density from 126 to 204 dwelling units and eliminating a ground floor commercial component. The multifamily residential format, site footprint, massing, improvement height, Mediterranean architectural style and other projects aspects are being maintained.

PROJECT IMPACTS

The modification of the project features only minor changes in a project site within the Midtown Specific Plan Area. The project modifications will maintain compliance with Midtown Specific Plan Guidelines on the site as to development standards and design guidelines.

The only changes of note from the previous project are the elimination of the commercial component and the addition of 78 dwelling units for a total of 204 units. The elimination of the commercial component mostly offsets the traffic impacts of the additional residential units. Therefore, the project results in 1,235 daily trips (95 in the AM peak and 115 in the PM peak). This trip generation constitutes only a minor addition of total trips from the previous project, which was projected to generate approximately 1,166 daily trips (84 in the AM peak and 109 in the PM peak).

The updated traffic analysis for the project did not identify any new impacts for the project. It is not expected that any environmental impacts would occur beyond what was already identified in the adopted Mitigated Negative Declaration.

PLANNING AND DEVELOPMENT DEPARTMENT FINDINGS

It is the finding of the Planning Division that the previous environmental document as herein amended may be used to fulfill the environmental review requirements of the current project. Because the current project meets the conditions for the application of State CEQA Guidelines Section 15164, preparation of a new EIR or Negative Declaration is not required for the issue areas discussed above. Discretionary processing of the South Main Street Residential Project may now proceed with the understanding that any substantial changes in the proposal may be subject to further environmental review.

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SECTION 1 INTRODUCTION AND PURPOSE

This Initial Study of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations 1500*et. seq.*), and the regulations and policies of the City of Milpitas. The project site is currently designated *General Commercial with a Transit-Oriented Overlay* in the City of Milpitas General Plan and zoned *C2-TOD-S, General Commercial with Transit Oriented Development Combining District Overlay* . This Initial Study evaluates the environmental impacts which might reasonably be anticipates to result from the land use designation change and rezoning of the approximately 2.72 acre site to *R-4-TOD-S, Multi-Family Very High Density Residence District with Transit Oriented Development Overlay* zoning and *Multi-Family High Density Residential* land use, to allow for the construction of 126 condominium units and 2,700 square feet of ground floor retail space.

The City of Milpitas is the Lead Agency under CEQA and has prepared this Initial Study to address the impacts of implementing the proposed project.

SECTION 2 PROJECT INFORMATION

2.1 PROJECT TITLE

South Main Street Residential Development Project

2.2 PROJECT LOCATION

The proposed project site is located immediately north of the intersection of South Abel Street and South Main Street in the City of Milpitas. Regional and vicinity maps of the project area are shown on Figures 1 and 2, respectively.

2.3 LEAD AGENCY CONTACT

City of Milpitas
Bridgette Carroll, Project Manager
455 East Calaveras Boulevard
Milpitas, CA 95035
(408) 586-3279

2.4 PROPERTY OWNER/PROJECT PROPONENT

Mr. John Baer
The Matteson Companies
1991 Broadway, Suite 300
Redwood City, CA 94063
Phone: 650-556-1500

2.5 ASSESSOR'S PARCEL NUMBER

086-16-100

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: General Commercial with a Transit Oriented Development Overlay

Zoning District: C-2-TOD-S, General Commercial with Transit Oriented Development Combining District Overlay and Site and Architectural Review Combining District Overlay

Regional Map-Figure 1

Vicinity Map-Figure 2

SECTION 3 PROJECT DESCRIPTION

The South Main Street Residential Development project (hereinafter the "project") proposes 126 for-sale multi-family dwelling units (condominiums) and 2,700 square feet of retail on approximately 2.72 acres (46 DU/AC). The site is located just north of the South Main Street/South Abel Street intersection, approximately 0.25 miles to the south of the Valley Transportation Authority (VTA) Great Mall/Main light rail station in the City of Milpitas. The purpose of the proposed project is to provide high density housing within close proximity to transit.

The project site is undeveloped and is currently designated *General Commercial with a Transit Oriented Development Overlay*[1] in the General Plan and zoned *C-2-TOD-S General Commercial with Transit Oriented Development Combining District Overlay and Site and Architectural Review Combining District Overlay.* The project proposes a General Plan land use change of the site to *Multi-Family High Density Residential with a Transit Oriented Development Overlay*, allowing for the development of between 41 and 60 dwelling units per acre. The project also proposes rezoning of the site to *R-4 Multi-Family Very High Density Residence District with Transit Oriented Development Combining District Overlay and Site and Architectural Review Combining District Overlay* and the construction of three stories of condominium units above ground floor retail and an at-grade parking structure. The buildings will be approximately 46.0 feet tall at the mid point of the roof and will have a maximum height of approximately 54.5 feet with the addition of decorative architectural features. The ground floor retail will be located at the corner of South Main Street/South Abel Street with nine residential units above. The remaining 117 residential units will be located on a single podium above the single-story parking structure. The 126 dwelling units will be for-sale units and it is currently anticipated that the units will be comprised of 31 one-bedroom units, 80 two-bedroom units, and 15 three-bedroom units. See Figure 3.

The proposed project will have a combination of common and private open space. The project proposes two courtyard areas on top of the podium. The courtyards will be located in the interior of the site and total approximately 13,260 square feet of common open space and approximately 6,161 square feet of private open space. The private open space within the courtyards will be fenced patios one the first floor. The southern courtyard will be open space with a spa and sitting area. The northern courtyard will have a swimming pool, spa, and fitness/recreation room. Residential units that do not have fenced patios will have private balconies. In addition to the courtyards, the project site will also have a 5,008 square foot open space area on the western side of the property comprised of ground cover and evergreen shrubs. While this area may be used for passive recreation, the main purposed of this area is for stormwater treatment.

The project will provide a total of 262 parking spaces on the project site. Of the 262 parking spaces, 226 would be located in the single-level, at-grade gated parking garage. The garage will house both residential and retail parking. There will be a total of 206 assigned residential parking spaces. The remaining 20 spaces will be shared retail/resident parking. The garage will be accessed by two ingress/egress driveways on South Main Street. The southern driveway will be 25 feet wide and will provide direct access to the parking structure. The shared retail/resident parking will be located at this driveway entrance and will be separated from the assigned residential parking by a gate. The

[1] TOD Overlay Zone is located near transit stations and is applicable to land generally located within a 2,000 foot walking distance from a light rail station or future BART station. City of Milpitas General Plan. March 2002.

northern driveway will be 25 feet wide and will enter the surface parking lot, which provides through access to the parking structure. Twenty-eight of the 206 resident garage parking spaces will be tandem parking. Each pair of tandem parking spaces will be dedicated to individual multi-bedroom dwelling units. The project will also provide 38 bicycle parking spaces for residents within the garage and 36 automobile parking spaces in a surface lot at the northern end of the project site for guests. See Figure 4.

The proposed rezoning, General Plan Amendment, Midtown Specific Plan Amendment, Tentative Map, Site & Architectural Review, and subsequent permits needed to implement the proposed project are covered by this Initial Study.

Figure 3 – Site Plans

Figure 4 – Parking Plan

SECTION 4 ENVIRONMENTAL SETTING & CHECKLIST

This section describes the existing environmental conditions on and near the proposed project site, as well as environmental impacts associated with the project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, is used to identify environmental impacts that could occur if the proposed project is implemented. This section identifies the impacts which might result from the proposed project, explains the answers to the checklist questions, and addresses mitigation measures that are proposed to reduce or avoid significant impacts. The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of the checklist. Where appropriate, this section also includes an explanation for those adverse impacts determined to be less than significant.

4.1 AESTHETICS

4.1.1 Setting

The approximately 2.72 acre project site is located within a commercial area of Milpitas, at the intersection of South Main Street and South Abel Street. The site is currently undeveloped and the surrounding area is flat. Because there are no elevated areas of development in the project area, the existing buildings obscure the view of the project site and making the site visible only from within the immediate area.

The site is bordered by sidewalks and roadways on the eastern and southern portion of the project site, a small retail center on the western boundary, and a six foot wide Santa Clara Valley Water District right-of-way along the northern portion of the site, located between the project site boundary and Penitencia Creek. The site is undeveloped and covered with brush. One large tree is located on the southern portion of the site. Street trees are located on the eastern and southern perimeters.

The site is currently an undeveloped lot (see Photo 1) bounded on the north by Penitencia Creek. The creek is separated from the project site by a riparian corridor, a ten foot tall earthen levee, and a 25-foot wide Santa Clara Valley Water District easement. The riparian corridor is vegetated with grasses (see Photo 2). The riparian vegetation and the levee are visible from South Main Street and the surrounding land uses.

The eastern boundary of the project site is South Main Street. South Main Street is a four-lane roadway with bike lanes along both shoulders, sidewalks on both the eastern and western side of the road, and ten street trees lining the western sidewalk adjacent to the project site. On the east side of South Main Street are two restaurants (Palm's Restaurant and Lina's Place), the Milpitas Animal Hospital, and the A-Tool Shed Rental Equipment office and rental lot. The Palm's Restaurant is a single-story, brick and stucco, L-shaped restaurant surrounded by a large surface parking lot. It is located on the eastern side of Main Street closest to the intersection of S. Main and S. South Abel Street. Lina's Place restaurant is just north of the Palm's restaurant. Lina's Place is an older, small, one-story stucco building with a flat roof and no windows except for a drive-thru. It is surrounded by a large gravel parking lot (see Photo 3). The Milpitas Animal Hospital is immediately to the north of Lina's Place restaurant and parking lot. The Milpitas Animal Hospital is a small, one-story, stucco building with a paved parking lot to the south. A-Tool Shed Equipment Rental is located north of the animal hospital. The rental business includes a small, one-story, stucco building with a wood-shingled roof and a small, paved parking lot on the south side of the building. A street tree is located

Photos 1-2

Photos 3-4

Photos 5-6

in front of the building, near the sidewalk. The equipment storage lot is immediately north of the office building (see Photo 4). Landscaping separates the equipment rental office and the equipment storage lot to the north. A metal fence separates a railroad from the rear lots of all of the businesses facing the eastern side of South Main Street.

West of the project site is a small retail center comprised of various businesses. The retail center is a two-story L-shaped building with tiled roofing and a stucco exterior. The parking lot is accessible via two driveways off of South Abel Street (see Photo 5). The eastern side of the adjacent commercial development abuts the project site. There are three trees and various landscaping located along the eastern side of the building bordering the project site. Shop entrances and windows are facing the parking lot located on the south side of the building.

4.1.2 Environmental Checklist and Discussion

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

4.1.2.1 Change in Visual Character

The proposed project would develop a currently undeveloped lot with up to 126 multi-family attached residential units and 2,700 square feet of retail. The proposed residential units would be three stories over an at-grade parking structure with an average building height of 50 feet. Units will range from 850 to 1,500 square feet in size. The retail space would be located at the southeast corner of the site with a street level entry onto South Main Street, were South Main Street and South Abel Street meet. The project consists of three interconnected buildings oriented around two courtyards. New landscaping would be located along the perimeter of the site and in the interior courtyards.

The development of the proposed project would be of similar mass, density, and height as the surrounding residential uses located to the south of the project site, and residential uses currently

approved and under construction to the north of the project site. The project will be required to comply with the City's adopted Midtown Specific Plan Design Guidelines. In addition, the project will need to conform to the City's Plan Line Study to ensure that the streetscape elements are consistent other developments on Main Street and Able Street. The project will have a less than significant visual and aesthetic impact.

Conformance with the Midtown Specific Plan Design Guidelines would be required for the proposed development. The Guidelines stipulate the following:

- Buildings cannot exceed four stories or 60-feet in height;
- Commercial uses shall be built to the edge of the sidewalk and any setback area for commercial or mixed-use buildings would be primarily paved to allow for outdoor seating or display of goods;
- Special architectural features such as bay windows, and entry features such as trellises, canopies and awnings;
- The primary face shall have a direct relationship to the location of building entries and detail of building articulation;
- Primary entries for commercial establishments and second floor residential units would be visible and accessible directly from the street.

The site is not located within or adjacent to a scenic viewshed or along a scenic highway.

4.1.2.2 Light and Glare Impacts

The project would include outdoor security lighting on the site, along walkways, driveways, and entrance areas. This outside lighting would be high-pressure sodium lighting. Lighting would increase the level of illumination in the area, but would be consistent with the existing lighting provided at the adjacent apartments and for commercial uses surrounding the site. Based on the consistency with nearby lighting, the project would not result in significant light and glare impacts.

4.1.3 Conclusion

The proposed project would not result in significant, adverse visual or aesthetic impacts. **(Less Than Significant Impact)**

4.2 AGRICULTURE

4.2.1 Setting

According to the Santa Clara County Important Farmland 2004 map, the project site is designated as *Urban and Built-Up Land*. *Urban and Built-up Land* is defined as residential land with a density of at least six units per 10-acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment and water control structures.

Currently, the project site is undeveloped and not used for agricultural purposes. The site is not the subject of a Williamson Act contract. The site is located within an urban area of Milpitas and there is no agricultural land adjacent to the project site.

4.2.2 Environmental Checklist and Discussion

AGRICULTURAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	1,2,3,4
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	1,2,3,4
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒	☐	1,2,3,4

As described above, the project site is not designated as farmland or used for agricultural purposes. In addition, the project will not conflict with a Williamson Act contract or result in the conversion of existing farmland to non-agricultural use. For these reasons, the proposed project would not result in any impacts to farmland.

4.2.3 Conclusion

The proposed project would not result in any impacts to farmland. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determinants of transport and dilution are wind, atmospheric stability, terrain and for photochemical pollutants, sunshine. In the Santa Clara Valley, vehicular emissions are the predominant source of air pollutants.

The Bay Area typically has moderate ventilation, frequent inversions that restrict vertical dilution, and terrain that restricts horizontal dilution. These factors give the Bay Area a relatively high atmospheric potential for pollution.

Northwest winds and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula. Winds from these directions carry pollutants released by autos and factories from upwind areas of the Peninsula toward Milpitas, particularly during the summer months. Winds are lightest on the average in fall and winter. Every year in fall and winter there are periods of several days when winds are very light and local pollutants can build up.

Topography can restrict horizontal dilution and mixing of pollutants by creating a barrier to air movement. The South Bay has significant terrain features that affect air quality. The Santa Cruz Mountains and Hayward Hills on either side of the South Bay restrict horizontal dilution, and this alignment of the terrain also channels winds from the north to south, carrying pollution from the northern Peninsula toward San José.

The combined effects of moderate ventilation, frequent inversions that restrict vertical dilution and terrain that restrict horizontal dilution give Milpitas a relatively high atmospheric potential for pollution compared to other parts of the San Francisco Bay Air Basin and provide a high potential for transport of pollutants to the east and south.

The two pollutants known at times to exceed the state and federal standards in the project area are regional pollutants. Ozone and PM_{10} are considered regional pollutants in that concentrations are not determined by proximity to individual sources, but show a relative uniformity over a region.

The Federal Clean Air Act and the California Clean Act of 1988 require that the State Air Resources Board, based on air quality monitoring data, designate portions of the state, where the federal or state ambient air quality standards are not met, as "nonattainment areas." Because of the differences between the national and data standards, the designation of nonattainment areas is different under the federal and state legislation. Under the California Clean Air Act, Santa Clara County is classified as a nonattainment area for ozone and PM_{10}. The county is either in attainment or unclassified for other pollutants.

4.3.1.1 Ambient Air Quality Standards

The Bay Area Air Quality Management District (BAAQMD) monitors air quality at several locations within the San Francisco Bay Air Basin. The closest multi-pollutant monitoring station to the project site is the Central monitoring station in downtown San José. Table 1 summarizes exceedences of

state and federal standards at the downtown San José monitoring site during the period 2003-2005. Violations of the carbon monoxide standards had been recorded in downtown San José prior to 1992.

TABLE 1
Number of Ambient Air Quality Standards Violations and Highest Concentrations (2003 - 2005)

Pollutant	Standard	Days Exceeding Standard		
		2003	2004	2005
Ozone	Federal 1-Hour	0	0	0
Ozone	State 1-Hour	4	0	1
Ozone	Federal 8-Hour	0	0	0
Carbon Monoxide	State/Federal 8-Hour	0	0	0
Nitrogen Dioxide	State 1-Hour	0	0	0
PM_{10}	Federal 24-Hour	0	0	0
PM_{10}	State 24-Hour	3	4	1
$PM_{2.5}$	Federal 24-Hour	0	0	0

Source: California Air Resources Board, Aerometric Data Analysis and Management System, 2006

Carbon monoxide is considered a local pollutant because elevated concentrations are usually found near the source. The major source of carbon monoxide, a colorless, odorless, poisonous gas, is automobile traffic. Elevated concentrations, therefore, are usually found near areas of high traffic volumes.

4.3.1.2 Sensitive Receptors

The BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. Sensitive receptors near the project site include the future residences to the north and existing residences to the south (refer to Figure 5).

4.3.2 Environmental Checklist and Discussion

AIR QUALITY	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	☐	1,2,3,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	☐	1,2,3,5

AIR QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	☐	1,2,3,5
4) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	☐	1,2,3,56
5) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1,2,3,5

4.3.2.1 Specific Development Project Regional and Local Air Quality Impacts

Implementation of the proposed project would slightly increase the number of dwelling units within the City of Milpitas. An increase in dwelling units typically results in an increase in traffic, which results in an increase in local and regional pollutant levels. The project proposes to construct up to 126 dwelling units. The Bay Area Air Quality Management District (BAAQMD) does not require project specific analysis for projects proposing less than 520 apartments/condominiums or resulting in less than 2,000 vehicle trips per day. If a project does not exceed either of these thresholds, it is typically assumed to have a less than significant impact on air quality. Nevertheless, an estimation of pollutants anticipated to be generated by the proposed project was calculated using the BAAQMD CEQA Guidelines.

The proposed project will generate approximately 1,166 daily trips (see Section 4.15, *Transportation)*. The BAAQMD CEQA Guidelines establish the following significance thresholds for common pollutants:

- Carbon Monoxide (CO) – 550 pounds per day
- Nitrogen Oxides (NO_x) – 80 pounds per day
- Reactive Organic Gases (ROG) – 80 pounds per day
- Particulate Matter (PM_{10}) – 80 pounds per day

Using the BAAQMD Methodology, it was calculated that the project will generate 136.0 pounds per day (ppd) of CO, 20.1 ppd of NOx, 9.9 ppd of ROG, and 7.8 ppd of PM_{10}, which are all well below the established significance thresholds for these pollutants. The proposed project will, therefore, have a less than significant impact on local and regional air quality.

The proposed development would not include any processes that would generate objectionable odors.

4.3.2.2 General Plan and Specific Development Project Construction-Related Impacts

The proposed project would require excavation and grading of the site. Excavation of soil has a high potential for creating air pollutants. In addition to the dust created during excavation, substantial dust emissions could be created as debris and soil is loaded into trucks for removal.

After excavation, construction dust would continue to affect local air quality during construction of the project. Construction activities would generate exhaust emissions from vehicles/equipment and fugitive particulate matter emissions that would affect local air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

During construction various diesel-powered vehicles and equipment would be used on-site. In 1998 the California Air Resources Board identified particulate matter from diesel-fueled engines as a toxic air contaminant (TAC). The California Air Resources Board has completed a risk management process that identified potential cancer risks for a range of activities using diesel-fueled engines.[2] High volume freeways, stationary diesel engines and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truck stop) were identified as having the highest associated risk.

Health risks from Toxic Air Contaminants are a function of both concentration and duration of exposure. Unlike the above types of sources, construction diesel emissions are temporary, affecting an area for a period of days or perhaps weeks. Additionally, construction related sources are mobile and transient in nature, and the bulk of the emission occurs within the project site at a substantial distance from nearby receptors. Because of its short duration, health risks from construction emissions of diesel particulates would be a less than significant impact.

According to the *BAAQMD CEQA Guidelines*, emissions of ozone precursors (ROG and NOx) and carbon monoxide related to construction equipment are already included in the emission inventory that is the basis for regional air quality plans, and thus are not expected to impede attainment or maintenance of ozone and carbon monoxide standards in the Bay Area. Thus, the effects of construction activities would be increased dustfall and locally elevated levels of particulate matter (PM_{10} and $PM_{2.5}$) downwind of construction activity, which is considered a significant impact

Impact AIR-1: Construction activities related to the proposed project could result in significant short and long-term air quality impacts.

Mitigation Measures: The following Midtown Specific Plan and specific development mitigation measures will reduce potential construction-related air quality impacts of the proposed project to a less than significant level:

[2] California Air Resources Board, *Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles*, October 2000.

Midtown Specific Plan

The Specific Plan contains policies directed at reducing vehicle miles traveled. The Specific Plan encourages a compatible mixture of land uses, provides for a land-use mix that supports major transit facilities, locates higher density development around hubs and commercial centers, provides for the continuation of pedestrian-oriented retail development, and provides pedestrian connections between the transit stations and important destinations.

Specific Development Project Mitigation Measures

The BAAQMD has prepared a list of feasible dust control measures that can reduce construction impacts to a less than significant level. The following measures will be implemented during all phases of construction on the project site:

MM AIR-1.1: The project applicant shall water all active construction areas at least twice daily or as often as needed to control dust emissions.

MM AIR-1.2: The project applicant shall cover all trucks hauling soil, sand, and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

MM AIR-1.3: The project applicant shall sweep daily or as often as needed with water sweepers on all paved access roads, parking areas, and staging areas at construction sites to control dust.

MM AIR-1.4: The project applicant shall sweep public streets daily or as often as needed to keep streets free of visible soil material.

MM AIR-1.5: The project applicant shall enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)

MM AIR-1.6: The project applicant shall replant vegetation in disturbed areas as quickly as possible.

4.3.3 Conclusion

The proposed project would not result in significant long-term air quality impacts. **(Less Than Significant Impact)**

Implementation of the proposed mitigation measures would reduce local air quality impacts associated with the construction of the proposed project to a less than significant level. **(Less Than Significant Impact with Mitigation)**

4.4 BIOLOGICAL RESOURCES

The following information is based in part on a Burrowing Owl survey and habitat report prepared by *Dean Carrier, Certified Wildlife Biologist* in November 2005 (see Appendix A).

4.4.1 Setting

The project site is located within a developed area of Milpitas. The project site is itself undeveloped. The site is covered in overgrown grassland and has one tree at the south end. Penitencia Creek, which is confined within a man-made channel in this area, borders the site to the north. Street trees are located along the eastern and southern perimeters of the site. Wildlife species expected to occur on the project site are those adapted to urban environments.

4.4.1.1 Special-Status Plants and Animals

Special status plants and animals include species listed under State and Federal Endangered Species Acts (including candidate species), animals designated as Species of Special Concern by the California Department of Fish and Game, and plants listed in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California.

Special Status Plant Species

The site is covered with dense ruderal vegetation of primarily non-native grasses and forbs. Species observed on-site included: Milk thistle, cheeseweed, black mustard, and wild radish. Evidence suggests that annual disking for weed abatement purposes has been conducted in the past. There are no special status plant species on the site.

The channelized segment of Penitencia Creek is partially rip rapped and appears to be periodically cleared of vegetation. During the reconnaissance survey, some emergent aquatic vegetation was growing in the channel.

Special Status Animal Species

Burrowing Owls

The burrowing owl is listed by the State of California as a Species of Special Concern due to habitat loss caused by intense development of open, flat, grasslands in California. This species occupies a variety of habitats where the burrowing activities of small mammals provide for suitable nesting habitat.

According to the Midtown Milpitas Specific Plan Draft EIR, burrowing owls have occurred within the Midtown area and suitable nesting habitat was identified at this project site. The Midtown Specific Plan EIR identified the need to survey the vacant lot for burrowing owls during the nesting season (April 15-July 15).

A reconnaissance-level survey was preformed on April 17, 2006 to determine if Burrowing Owls utilize the area for nesting, roosting or foraging. The survey found no Burrowing Owls or unoccupied burrows on the site. Also no secondary evidence of their presence (i.e., feathers, prey remains, etc.) were observed.

The site has little potential for providing long-term habitat for breeding Burrowing Owls. The increasing urban/commercial uses, including light rail, automobile traffic, human disturbance, annual disking requirements, and occurrence of domestic housecats in the adjacent residential areas render the site less than optimum for occupancy by the species. However, Burrowing Owls in Santa Clara County have nested in wells at transit stations, in landscaping strips adjacent to major streets, and on the pitchers mound in a college baseball diamond. Since Burrowing Owls have been known in this area, they may return to the site. The remaining vacant land is not a sufficient size to support a Burrowing Owl or pair of owls permanently or to function as breeding habitat.

Other Animal Species On-Site

The project site contained one small rodent hole in the Santa Clara Valley Water District right-of-way/gravel road, however, no mammals or mammal sign was noted. Jackrabbits appear to inhabit areas surrounding the eucalyptus tree on the site.

Other wildlife species noted on the site or in the vicinity included American crow, black phoebe, cliff swallows, and rock doves. A pair of mallards was observed in the Penitencia Creek channel.

4.4.1.2 Tree Ordinance

The City of Milpitas Tree Ordinance defines an ordinance-size tree as any woody perennial plant characterized by having a main stem or trunk which measures 37-inches or greater in circumference. A tree removal permit is required for the removal of ordinance size trees.

There is an ordinance size eucalyptus tree located at the south of the project site. The tree is approximately 147-inches in circumference (48-inches diameter).

4.4.2 Environmental Checklist and Discussion

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐	☐	1,2,3,7,8

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	☐	1,2,3
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1,2,3
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐	1,2,3,7
Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐	☐	1,2,3,8
5) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐	1,2,3

4.4.2.1 Special-Status Plants and Animals

The project proposes to clear and grade the undeveloped parcel and construct up to 126 condominium units and 2,700 square feet of ground floor retail space. Under the proposed project, the site would continue to provide urban habitat for urban-adapted species. The site has no recorded historical presence of Burrowing Owls and is not currently occupied by burrowing owls. No other special status species have been found to occur on-site.

The project site is not currently occupied by Burrowing Owls and is disked regularly. Disking destroys possible owl habitat by destroying squirrel burrows. Nevertheless, owls have been known to occupy disked land and it must be assumed that owls could occupy the site. If owls are located on-

site, construction activities could result in a "take" (harming or destroying) of individual owls which would be a significant impact.

As stated in the setting section above, there is currently a small population of jack rabbits living and foraging on the project site. The jack rabbits are not a protected species and no specific measures are required to avoid or remove the animals prior to the start of construction. The loss of jack rabbits during construction is not considered a significant impact. Nevertheless, the applicant will work with the City to determine humane measures for removal and relocation of the jack rabbits prior to construction.

Impact BIO-1: Construction activities during the nesting season may result in the loss of individual Burrowing Owls foraging on or occupying the project site.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Biotic Resources Policy 4.b-I-4*: Require a biological assessment of any project site where sensitive species are present, or where habitats that support known sensitive species are present.

- *Biotic Resources Policy 4.b-I-5:* Utilize sensitive species information acquired through biological assessments, project land use, planning and design.

Specific Development Project Mitigation Measures

The following specific development mitigation measures will be implemented during construction to avoid take of Burrowing Owls:

MM BIO-1.1: Pre-construction surveys for Burrowing Owls shall be completed in conformance with CDFG protocols, no more than 30 days prior to the start of construction. If no Burrowing Owls are located during these surveys, no additional action is required. However, if Burrowing Owls are located on or immediately adjacent to the site the following mitigation measures will be implemented:

MM BIO-1.2: If Burrowing Owls are present during the nonbreeding season (1 September to 31 January), a 150-foot buffer zone, within which no new activity will be permissible, shall be maintained around the occupied burrow(s). During the breeding season (1 February to 31 August), a 250-foot buffer, within which no new activity will be permissible, will be maintained between project activities and occupied burrows. Owls present on-site after 1 February will be assumed to be nesting on or adjacent to the site unless evidence indicates otherwise. This protected area will remain in effect until 31 August, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.

MM BIO-1.3: If construction will directly impact occupied burrows, eviction outside the nesting season may be permitted pending evaluation of eviction plans by, and receipt of formal written approval of the relocation from the CDFG. No Burrowing Owls will be evicted from burrows during the nesting season (1 February through 31 August) unless evidence indicates that nesting is not actively occurring.

MM BIO-1.4: If destruction of occupied (breeding or non-breeding season) burrows, or any burrows that were found to be occupied during pre-construction surveys, is unavoidable, a strategy shall be developed to replace such burrows by enhancing existing burrows or creating artificial burrows on permanently protected lands adjacent to occupied burrowing owl habitat. This strategy will include permanent protection of a minimum of 6.5 acres of Burrowing Owl habitat per pair or unpaired resident owl. A plan shall be developed and approved by the County describing creation or enhancement of burrows, maintenance of burrows and management of foraging habitat, monitoring procedures, funding assurance, annual reporting requirements, and contingency and remediation measures.

4.4.2.2 Ordinance-Size Trees

The project proposes to remove the existing eucalyptus tree on the project site, which is protected under the Milpitas zoning ordinance, and plant new landscaping throughout the proposed residential and commercial development.

Impact BIO-2: Implementation of the proposed project will result in the loss of one tree protected by the City of Milpitas Zoning Ordinance.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Biotic Resources Policy 4.b-I-2*: Preserve remaining stands of trees.

Specific Development Project Mitigation Measures

The following mitigation measures are included in the proposed project to reduce the impact of the loss of the protected tree.

MM BIO-2.1: In conformance with the City of Milpitas Zoning Ordinance, all trees removed from the site that measure 37-inches or greater in circumference (12-inches in diameter) at four feet six inches above the ground surface shall be replaced in-kind at a 3:1 ratio within the project site.

MM BIO-2.2: Trees that are removed but cannot be mitigated for on-site, due to lack of available planting area, shall be mitigated by fees paid to the City. The funds will be deposited in the City's Tree Replacement Fund and will be used to plant trees within the City of Milpitas.

4.4.3 Conclusion

The proposed project, with the implementation of the above mitigation measures, would not result in significant impacts to biological resources. **(Less Than Significant Impact)**

4.5 CULTURAL RESOURCES

4.5.1 Setting

4.5.1.1 Prehistoric Resources

The project site is located at an infill location, adjacent to Penitencia Creek which was relocated to its existing location in the early 1980s. Historically a small portion of the creek was located within the boundaries of the project site. According to the City of Milpitas Archaeological Sensitivity Map, the project site is considered archaeologically sensitive.

4.5.1.2 Historic Resources

According to the Midtown Specific Plan EIR, there is one known archaeological site in the vicinity of the project site (CA-SCL-38). The site is located within 100 feet of Penitencia Creek, within the Elmwood Correctional Facility and extending beyond the facility's property line toward South Abel Street. Additionally, many prehistoric sites have been found near creeks in Santa Clara County.

There are no existing structures on the site, and no local, state, or federal historically or architecturally significant structures, landmarks, or points of interest are located on-site.

4.5.2 Environmental Checklist and Discussion

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

4.5.2.1 Prehistoric and Historic Resources

Due to the presence of known archaeological resources near this section of Penitencia Creek, any proposed development within 100 feet of the creek or its historic location will be reviewed for their potential to adversely affect archaeological resources. A portion of the proposed project site is located within 100 feet of the current and historic location of Penitencia Creek.

There are no known archaeological resources located within the project site, however, Penitencia Creek previously ran near the eastern site boundary prior to the early 1980s when it was channelized to its current location along the northern site boundary. Within the vicinity of Penitencia Creek in Milpitas are known archaeological resources[3]. Due to the close proximity of the historic alignment of Penitencia Creek it is possible that unknown subsurface resources including human burials could exist on the project site.

Impact CUL-1: Development of the project site could result in a significant impact to buried cultural resources which could be present on the site.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Historic and Cultural Resources Policy 4.f-I-3*: Develop a program to survey and catalog artifacts, documents, and other historic materials.

Midtown Specific Plan Mitigation Measure

Cultural Mitigation Measure 2: When proposed for development, the planned bicycle and pedestrian improvement in the vicinity of the Penitencia Creek and the development of vacant lands in the vicinity of Penitencia Creek (within 100 feet of the creek bank) shall be reviewed for their potential to adversely affect archaeological site CA-SCL-38. Mitigation, including site avoidance, data recovery and/or construction monitoring may be necessary, depending on the nature of the site, and the project's potential impact to it. A qualified archaeologist shall make project-specific recommendations, which shall be implemented prior to the development of the path or construction on these vacant lands.

Specific Development Mitigation and Avoidance Measures

The following measures, as required by the state and as identified in the Midtown Milpitas Specific Plan Draft EIR[4], would be incorporated as part of the project and will be implemented in the event that historic or prehistoric resources are uncovered during project construction:

[3] Costanoan village sites lie within the City limits of Milpitas. A large shellmound near the present-day Elmwood Rehabilitation Center, was discovered in 1949 and dates back to the 18th century.
[4] City of Milpitas. Midtown Milpitas Specific Plan, Chapter 3.8: Cultural Resources. October 8, 2001.

MM CUL-1.1: During site clearing, initial grading, and excavation, a qualified archaeologist shall be on-site to monitor all ground disturbing activities to determine if any unknown resources are located on-site.

MM CUL-1.2: Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the land owner shall re-intern the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

MM CUL-1.3: In the event that any archaeological site indicators are found, work will be stopped within 50 feet of the discovery until a qualified archaeologist has inspected the resource and made a determination of significance. If the resource is determined to be insignificant, work can resume with no further action. If the resource is determined to be significant, then recommendations for recordation and preservation of the resource will be made by the archaeologist and a data recovery work plan will be prepared and submitted to the City's Director of Planning for approval. Construction work will not be allowed within the designated 50-foot zone until the archaeologist completes the data recovery.

4.5.3 Conclusion

The proposed project, with the implementation of the above proposed avoidance and mitigation measures, would not result in significant impacts to cultural resources. **(Less Than Significant Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based a geotechnical investigation prepared by *Lowney Associates* in June 2005. The complete report can be found in Appendix B of this Initial Study.

4.6.1 Setting

4.6.1.1 Geologic and Soil Conditions

Soils

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and San Francisco Bay to the north. In Milpitas, the soil is comprised of clay soils that contain groundwater at shallow depths[5]. The subsurface conditions make the project area subject to high shrink/swell potential[6]. Soils with shrink/swell potential swell when wet and shrink while drying. These soil conditions may present geotechnical constraints to foundation design and construction.

Borings taken on the project site determined that the soil includes approximately two to three feet of surficial fill, underlain by silty sand to a depth of eight feet. Under the silty sand the subsurface consists of interbedded layers of silts and clays to a depth of 45 feet (maximum depth explored).

Seismicity

The San Francisco Bay Area is classified as Zone 4 for seismic activity, the most seismically active region in the United States. Strong ground shaking can therefore be expected at the site during moderate to severe earthquakes in the general region. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined, active fault zones of the San Andreas Fault system, which regionally trends in a northwesterly direction.

The site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone (formerly known as a Special Studies Zone) or a Santa Clara County Fault Rupture Zone (Santa Clara County, 2002). No known active faults cross the site, and as a result, fault rupture through the site is not anticipated.

The major active faults in the project area include: the Hayward, Calaveras, and San Andreas faults. The San Andreas Fault is approximately 15 miles southwest of the site, the Hayward Fault is approximately five miles northeast of the site, and the Calaveras Fault is approximately eight miles east of the site. Smaller faults close to the site include the Silver Creek Fault located two miles west and the Evergreen Fault located three miles east of the site. Due to the close proximity of the site to the aforementioned faults, any groundshaking, ground failure, or liquefaction caused by an earthquake could damage to structures on-site. The Association of Bay Area Governments (ABAG) predicts that there is a 67 percent probability that one or more major earthquakes will occur in the San Francisco region within the next 30 years. It is probable that a large earthquake would induce strong to very strong ground shaking on the project site during the life of the project.

[5] Historical high ground water of seven feet below the surface could be expected for the site vicinity.
[6] U.S. Department of Agriculture, Soil Conservation Service, Soils of Santa Clara County, August 15, 1968.

Liquefaction

Liquefaction is the transformation of water saturated soil from a solid to a liquid state during ground shaking. Soils most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage, such as silty sands or sands and gravels capped by or containing seams of impermeable sediment.

The sand layers encountered in the borings were generally medium dense to dense with varying amounts of clay. Some of the medium dense, silty sand layers beneath the design ground water depth of approximately seven feet are potentially liquefiable following a large earthquake on a nearby fault. Liquefaction of these layers could result in up to approximately 3/4-inch of total settlement. There are approximately seven feet of non-liquefiable material to prevent ground rupture at the site.[7]

Lateral Spreading

Lateral spreading occurs when a continuous layer of soil liquefies at depth and the soil layers above move toward an unsupported face, such as a shoreline slope of creek channel, or in the direction of a regional slope or gradient. Based on the discontinuous nature and depth of potentially liquefiable layers, it has been concluded that the site has a low probability of lateral spreading.

4.6.2 Environmental Checklist and Discussion

GEOLOGY AND SOILS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	☐	1,2,3,9
b) Strong seismic ground shaking?	☐	☐	☒	☐	☐	1,2,3,9
c) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	☐	1,2,3,9

[7] Lowney Associates. Feasibility-Level Geotechnical Investigation for Main and Abel Street Residential Development. June 13, 2005.

GEOLOGY AND SOILS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
d) Landslides?	☐	☐	☐	☒	☐	1,2,3,9
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	☐	1,2,3,9
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	☐	1,2,3,9
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☒	☐	☐	☐	1,2,3,9
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1,2,3

4.6.2.1 Impacts from General Plan Amendment and Specific Development Project

Geologic and Soil Conditions

The project site includes moderate to highly expansive soils, which may expand and contract as a result of seasonal or man-made soil moisture conditions. Expansive soil conditions have the potential to damage structures and improvements on the project site. In addition, the surface soil of the site contains approximately two feet of fill material.

The site is also located in a seismically active region and, therefore, strong ground shaking is expected during the lifetime of the proposed project. While no active faults are known to cross the project site, groundshaking on the site could damage buildings and threaten the welfare of the residents. Furthermore, soils on the project site have a moderately high potential for liquefaction.

Geologic conditions on the project site will require that the proposed structures be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4. Geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these measures the project will not expose people or property to significant impacts associated with the geologic conditions of the site.

In addition, the project will not be exposed to slope instability, erosion, or landslide related hazards, due to the flat topography of the site.

Impact GEO-1: Expansive soil conditions on the project site have the potential to damage structures and improvements and groundshaking at the site could damage buildings and threaten the welfare of the residents.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Seismic and Geologic Hazards Policy 5.a-I-3*: Require projects to comply with the guidelines prescribed in the City's *Geotechnical Hazards Evaluation* manual.

Specific Development Project Mitigation Measures

The project proposes to implement the following mitigation measure:

MM GEO-1.1: Buildings shall be designed and constructed in accordance with the design-level geotechnical investigation prepared for the site, which identifies specific design features that will be required for the project, including: site preparation, compaction, trench excavations, exploration, and borings and test pits of the former creek area. The geotechnical investigation shall be reviewed and approved by the City's Director of Public Works prior to issuance of a building permit for the project.

4.6.3 Conclusion

With implementation of the standard engineering measures and standard measures described above, the proposed project would not result in significant geologic or soil impacts. **(Less Than Significant Impact with Mitigation Incorporated)**

4.7 HAZARDS AND HAZARDOUS MATERIALS

The following information is based on a Phase I Environmental Assessment prepared by *Lowney Associates* in June 2005 (see Appendix C).

4.7.1 Setting

4.7.1.1 Project Site History and Current Land Uses

Based on aerial photographs and topographic maps of the site, the site has been undeveloped since at least 1939. The project site is still undeveloped. It appears that the site was part of a larger farming operation and that the project site was grassland for cattle grazing. The 1965 aerial shows possible hay cultivation for the cattle. There is no evidence of other agricultural land uses, such as orchards or row crops, occurring on the project site.

4.7.1.2 Project Vicinity History and Current Land Uses

Based on aerial photographs from 1939 to 1956, the lands directly adjacent to the project site were all undeveloped. South Main Street, South Abel Street and Capitol Avenue had not yet been built. Some residential and commercial developments were present south and east of the site. In addition, a Ford automotive plant was present approximately 0.25 miles northeast of the site by 1956. Agricultural land and orchards were present to the south and southeast, but were diminishing in size by 1956.

South Main Street is first documented on a 1961 topographic map. A 1965 aerial shows that most of the land south and west of the site was still undeveloped, though Capitol Avenue is present.

On the 1982 aerial, undeveloped property still appears north and west of the site. Commercial development is present south and east of the site and all the current surface streets exist except of Great Mall Parkway.

In 1993, the adjacent commercial center was constructed and Great Mall Parkway is shown on the 1998 photos.

4.7.2 Environmental Checklist and Discussion

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	☐	1,2,3 11

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐	☐	1,2,3, 11
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐	☐	1,2,3 11
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	1,2,3 11
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1,2,3
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1,2,3
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐	☐	1,2,3

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1,2,3

4.7.2.1 On-Site Impacts

Based on aerial photographs and fire insurance maps, the project site has never been developed. Because there have been no documented land uses on the project site that would generate, use, or store hazardous materials, it is reasonable to assume that there is no soil or groundwater contamination on the site.

4.7.2.2 Off-Site Impacts

A regulatory database report was obtained to help establish whether contamination spills that might have impacts this property have been reported in the vicinity. There were no reported nearby hazardous materials spills or releases. Because there have been no nearby hazardous materials releases or spills, it is reasonable to assume that there is no soil or groundwater contamination on site.

4.7.3 Conclusion

Implementation of the proposed project would not create any hazardous conditions on the project site and will result in a less than significant hazardous materials impact. **(Less than Significant Impact)**

4.8 HYDROLOGY AND WATER QUALITY

4.8.1 Setting

4.8.1.1 Flooding

Based on the Federal Emergency Management Agency's Flood Insurance Rate Maps, the project site is located within *Zone AO*. Flood Zone AO is defined as areas with flood depths of one to three feet. The map lists the flood depth for the project site at one foot.

4.8.1.2 Storm Drainage System

The City of Milpitas owns and maintains the storm drainage system which serves the project site. The project site contains two 8-inch storm drains in the roadway located at the southwestern boundary of the site, a 12-inch storm drain in the roadway located at the western boundary of the site, a 14-inch storm drain in the roadway on the northern portion of the site and a 12-inch storm drain connector to the 14-inch storm drain. All of the storm drains flow to a 36-inch line in South Main Street.

4.8.1.3 Ground Water

Based on a geotechnical investigation by *Lowney Associates*, the depth to groundwater was found approximately 12 feet below the ground surface. Groundwater has been recorded at seven feet below the ground surface historically, with some seasonal variations.

4.8.1.4 Regulatory Requirements

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed in accordance with the requirements of the revised 1995 San Francisco Bay Basin Water Quality Control Plan, for the purpose of reducing water pollution associated with urban stormwater runoff. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Environmental Protection Agency develop National Pollutant Discharge Elimination System Permit application requirements for stormwater runoff. The Program's Municipal NPDES stormwater permit includes provisions requiring regulation of stormwater discharges associated with new development and construction and development of an area-wide watershed management strategy. The permit also identifies recommended actions for the preservation, restoration, and enhancement of the San Francisco Bay Delta Estuary.

The SWRCB NPDES General Permit for Construction Activities requires Stormwater Pollution Prevention Plans (SWPPPs) to control discharge associated with construction activities for sites 10,000 square feet or larger. Development on such sites is required to submit a Notice of Intent (NOI) to the SWRCB and prepare a SWPPP prior to construction.

The City of Milpitas is a co-permittee to the Santa Clara Valley Urban Runoff Pollution Prevention Program's NPDES permit for municipal storm water discharges, issued by the Regional Water Quality Control Board (RWQCB). The NPDES permit includes requirements for water quality monitoring, identification and elimination of illicit connections and illegal dumping to the storm

drainage system, increases to the municipal storm drainage system and street cleaning and public education programs.

4.8.2 Environmental Checklist and Discussion

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	☐	1,2,3 15
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐	☐	1,2,3
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	☐	☐	☒	☐	☐	1,2,3
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	☐	☐	☒	☐	☐	1,2,3 15
5) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐	☐	1,2,3 15
6) Otherwise substantially degrade water quality?	☐	☐	☒	☐	☐	1,2,3

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☒	☐	☐	1,2,3 13,14
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☒	☐	☐	1,2,3 13,14
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐	☐	1,2,3 13,14
10) Be subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1,2,3 14

4.8.2.1 Flooding Impacts

The proposed project site is located within a 100-year flood zone with a flood depth of one-foot. The flooding hazard in the project area is primarily ponding and overflows of open drainage channels that result in shallow flooding. The City of Milpitas is a participant in the National Flood Insurance Program (NFIP). As a result, flooding hazards within the City are managed under the requirements of the National Flood Insurance Act of 1986 and the Flood Disaster Protection Act of 1973, as amended. Furthermore, the City's Floodplain Management Ordinance prohibits new development from redirecting flood flows or substantially increasing the flood depth of any area.

New development is required to be constructed at an elevation above the base flood under the existing requirements of the National Flood Insurance Program and the City's Floodplain Management Ordinance. The project has been designed to will comply with this requirement. Therefore, the proposed project will not expose people or structures to a significant risk of loss, injury, or death involving flooding and will have a less than significant flooding impact.

4.8.2.2 Water Quality Impacts

Operational Impacts

Implementation of the proposed project would result in an undeveloped 2.72 acre dirt lot being covered with approximately 101,896 square feet of impervious surfaces. The RWQCB requires that a stormwater control plan be implemented for any project replacing or adding 10,000 square feet of impervious surface. To ensure compliance with the requirements of the RWQCB, a stormwater control plan (see Appendix D) was prepared by *BKF Engineers* in accordance with the City of Milpitas Stormwater C.3. Guidebook (adopted October 2005).

Impact HYD – 1: Implementation of the proposed project will increase stormwater runoff from the project site.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Water Quality Policy 4.d.I.1:* Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board.

Specific Development Project Mitigation Measures

In order to comply with the requirements of the RWQCB, the following Best Management Practices (BMPs) are included as part of the proposed project. Future changes to any of the project BMPs are prohibited, unless otherwise reviewed and approved by the City of Milpitas' Director of Public Works.

MM HYD-1.1: **Level I – Source Control.** The source control program for the development will incorporate the following strategies:

- *Education and Outreach.* The storm drain inlets on the project site shall be stenciled "No Dumping – Drains to Bay". In addition, the future homeowners association will provide an orientation to new homeowners on the projects Stormwater Control Plan, non-point source pollution control measures, and secure their written commitment to participate in the plan where applicable.

- *Storm Drain Inlet Cleaning.* The homeowners association shall perform maintenance on privately owned storm drain inlets, which includes the collection and disposal of build-up materials inside the inlets.

- *Trash Collection Areas.* There shall be a centralized common trash collection area for this site. The runoff from this area will drain into the sanitary sewer system.

- *Fire Sprinkler Connections.* Fire sprinkler test water shall drain through the landscaping before entering the storm drain system.

MM HYD-1.2: **Level II – Treatment Control.** The treatment control program from the development will incorporate the following:

- *Vegetated Swale.* A vegetated swale shall be located along the western boundary of the site. This swale will be approximately 120 feet long and

planted with vegetation. It will be graded to promote infiltration and will treat stormwater runoff from the project site. An inlet will be at the low end of the swale to receive surface flows and convey it to the storm drainage system. The swale has been designed to accommodate peak runoff from a 10-year storm event; no bypass system is required.

- *Treatment Control Device.* In areas where stormwater will not pass through some sort of surface treatment (i.e., swales) prior to entering the storm drainage system, hydrodynamic devices shall be installed to provide in-line treatment prior to discharge into the City storm drain system. In addition to providing filtration for runoff, these devices will meter stormwater runoff so that it enters the storm drainage system at a consistent rate, regardless of the flow rate into the devices. The treatment control devices have been designed to accommodate peak runoff from a 10-year storm event. These devices will be maintained by the homeowners association.

MM HYD-1.3: **Monitoring and Maintenance.** The stormwater treatment systems listed above will need adequate routine maintenance to function as designed. The homeowners association shall be responsible for the implementation and/or oversight of the monitoring and maintenance program for this project. To ensure proper function, drain inlets and treatment control devices will need to be cleaned a minimum of once a year and inspected a minimum of two times per year.

Construction Impacts

The proposed project will increase pollutant loads during grading and construction of the new structures. Construction will temporarily increase the amount of debris on-site and grading will increase the potential for erosion and for sedimentation that could be carried by runoff into natural waterways, which will increase sedimentation impacts to Penitencia Creek and San Francisco Bay.

Construction of the proposed project will increase the amount of runoff and could also increase the associated pollution flowing into the storm drain system. However, Provision C.3. of Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) Municipal NPDES stormwater permit requires that all new development projects reduce the pollutant load in project site runoff compared to the current site conditions. As a result, Best Management Practices will be incorporated into the project to reduce the runoff pollutant load below current levels.

Impact HYD - 2: Development could cause a significant temporary increase in the contaminants in storm water runoff during construction.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Water Quality Policy 4.d-I-1:* Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board.

- *Drainage and Flooding Policy 5.b-I-1:* Ensure the new construction or substantial improvements to any existing structure result in adequate protection from hazards. This includes ensuring that: new residential development within the 100-year Flood Zone locate the lowest floor, including basement, above the base flood elevation; and new non-residential development locate the lowest floor, including basement, above the base flood elevation or incorporate flood-proofing and structural requirements as spelled out in the Municipal Code.

Specific Development Project Mitigation Measures

The following measures, based on Regional Water Quality Control Board Best Management Practices, have been included in the project to reduce construction-related and post-construction water quality impacts:

MM HYD-2.1: All unpaved driveways shall be filled with rock to knock mud from truck tires prior to entering City streets. A wash tire system may be employed.

MM HYD-2.2: Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

MM HYD-2.3: Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

MM HYD-2.4: All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

MM HYD-2.5: Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

MM HYD-2.6: All trucks hauling soil, sand, and other loose materials shall be covered and/or all trucks would be required to maintain at least two feet of freeboard.

MM HYD-2.7: All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

MM HYD-2.8: Vegetation in disturbed areas shall be replanted as quickly as possible.

MM HYD-2.9: The Stormwater Permit will be administered by the Regional Water Quality Control Board. Prior to grading of the project site, the applicant shall file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:

– Preclude non-stormwater discharges to the stormwater system.

- Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.

- Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.

- Perform monitoring of discharges to the stormwater system.

MM HYD-2.10: The project shall submit a copy of the draft SWPPP to the City of Milpitas for review and approval by the Director of Public Works prior to construction of the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

MM HYD-2.11: When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the Regional Water Quality Control Board and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

Ground Water Impacts

Even though the project site is currently undeveloped, the property is not designated as a recharge site for the groundwater aquifers. The proposed project will result in more impermeable surface area than the existing condition, and will not contribute to the recharging of the groundwater aquifers. Implementation of the project site will not interfere with groundwater flow or expose any aquifers. The water supply for the project site will not be met from the groundwater supply (see Section IV.P., *Utilities and Service Systems* for a discussion of water supply) and, as a result, the project will not deplete the existing groundwater supply.

4.8.3 Conclusion

With implementation of the proposed mitigation, the proposed project will have a less than significant impact on hydrology and water quality. **(Less Than Significant Impact)**

4.9 LAND USE

4.9.1 Setting

4.9.1.1 Existing Land Use

The project site is approximately 2.72 acres located within a primarily commercial area of Milpitas, at the intersection of South Main Street and South Abel Street in the City of Milpitas. The site is currently an undeveloped dirt lot and is known to have been undeveloped since 1939.

The entire property is currently designated *General Commercial with a Transit Oriented Development Overlay* and zoned *General Commercial with a Transit Oriented Development Combining District Overlay and Site and Architectural Review Combining District Overlay.*

4.9.1.2 Surrounding Land Uses

The project site is bounded on the north by Penitencia Creek. This section of Penitencia Creek has been relocated from its original alignment and is confined within a man-made, concrete-lined channel with no riparian vegetation. Just north of Penitencia Creek is the 8.19-acre Centria residential housing development which is currently under construction with 464 apartment units in one four-story tower and one five-story tower. Beyond the Centria project site is Great Mall Parkway and the elevated Great Mall/Main light-rail station.

The east boundary of the site is South Main Street, a four-lane roadway that is the major north-south arterial through the City. East of South Main Street is a mixture of commercial and light industrial development. The businesses nearest the project site are two restaurants, an animal hospital, and a tool rental company.

The property narrows near the south property line and ends at the "y" intersection of South Main Street and South Abel Street. South Main Street continues south through the intersection and becomes Oakland Road at the City limits of San José. To the south of the intersection are single-family residences (west of South Main Street) and commercial and light industrial buildings (east of South Main Street).

West of the site is a two-story, L-shaped neighborhood commercial building that houses a variety of small businesses. The commercial building is set back approximately 20 feet from the eastern property line. Between the commercial building and the east property line (delineated by a chain-link fence) is a maintenance walkway and abundant landscaping including large shrubs and evergreen trees. There is no public outdoor use area, loading zones, or other business related uses in the setback area.

West of the commercial building is South Abel Street, which is also a four-lane roadway. South Abel Street begins at its intersection with South Main Street and runs parallel to South Main Street through the City. West of South Abel Street is a single-family neighborhood comprised of one- and two-story houses.

Aerial Photograph-Figure 5

2. Environmental Checklist and Discussion

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

The project is being rezoned from *C-2-TOD-S, General Commercial with Transit Oriented Development* to *R4-TOD-S, Multi-Family Very High Density Residence District with Transit Oriented Development*, which permits high density residential and mixed use development. The land use designation for the project site is also being changed from *General Commercial with a Transit Oriented Development Overlay* to *Multi-Family High Density Residential with a Transit Oriented Development Overlay*. The proposed project is the development of up to 126 residential units (at 46 DU/AC) and 2,700 square feet of retail space. Minimum setbacks include approximately 20 feet from western property line (within this 20-foot setback will be a landscaped area), approximately 10 feet from the northern property line, and approximately 10 feet from the eastern and southern property lines.

4.9.2.1 Land Use Conflicts

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of there circumstances are aspects of *land use compatibility*. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. Depending on the nature of the impacts and its severity, land use compatibility conflicts can range from minor irritation and nuisance to potentially significant effects on human health and safety. The discussion below distinguished between potential impacts from the proposed project upon persons and the physical environment, and potential impacts from the project's surroundings upon the project itself.

4.9.2.2 Land Use Impacts

Implementation of the proposed project will result in an undeveloped lot being developed with up to 126 multi-family residential units and 2,700 square feet of retail. The proposed residential land use is compatible with the residential neighborhoods to the west and south and the residential development currently under construction to the north of the site because they are all residential land uses. The adjacent and nearby commercial and retail businesses are land uses that can commonly be found adjacent to residential neighborhoods throughout the City of Milpitas and Santa Clara County. A multi-family development was recently approved by the City and is under construction directly north of the project site indicating that the area is generally suitable for high density residential development.

Conformance with the following General Plan policies and Midtown Specific Plan land use goals will reduce or avoid impacts:

- *Guiding Principle 2.a-G-1:* Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center.
- *Guiding Principle 2.a-G-3:* Maintain a relatively compact urban form.
- *Guiding Principle 2.a-G-6:* Implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high-density, transit-oriented housing and a central community 'gathering place' while maintaining needed industrial, service and commercial uses.
- *Guiding Principle 2.a-I-2:* Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.
- *Guiding Principle 2.a-1-22:* Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages
- *Guiding Principle 2.a-I-23:* Require development in the Midtown area to conform to the adopted design guidelines/requirements contained in the Midtown Specific Plan.

<u>Midtown Specific Plan Land Use Goals</u>

- Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown Area.
- Provide for a significant component of new housing within the area in order to: improve vitality of the Midtown Area, address local and regional housing needs, and reinforce the use of transit.
- Promote an intensity of development in Midtown that is appropriate to its central location.
- Provide for a land use mix that supports major transit facilities.

4.9.3 Conclusion

Implementation of the proposed project will have a less than significant land use impact. **(Less Than Significant)**

4.10 MINERAL RESOURCES

4.10.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mt. Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources.

The project site is located at the intersection of South Main Street and South Abel Street in Milpitas which is not within any designated mineral deposit area of local or regional significance. The site does not contain any known mineral resources.

4.10.2 Environmental Checklist and Discussion

MINERAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	☐	1,2,3
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	☐	1,2,3

The project would not result in the loss of availability of a known mineral resource, and would not result in impacts to mineral resources.

3. Conclusion

The project would not result in any impacts from the loss of availability of known mineral resources. **(No Impact)**

4.11 NOISE

The following discussion is based upon a noise analysis prepared for the project by *Charles M. Salter Associates, Inc.* in February 2006. A complete copy of the noise analysis is provided in Appendix E of this report.

4.11.1 Setting

4.11.1.1 Background Information

Several factors influence sound as it is perceived by the human ear, including the actual level of sound, the period of exposure to the sound, the frequencies involved, and fluctuations in the noise level during exposure. Noise is measured on a "decibel" scale which serves as an index of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the "A-weighted" decibel or dBA. Further, sound is averaged over time and penalties are added to the average for noise that is generated during times that may be more disturbing to sensitive uses such as early morning, or late evening.

Since excessive noise levels can adversely affect human activities (such as conversation and sleeping) and human health, federal, state, and local governmental agencies have set criteria or planning goals to minimize or avoid these effects. Noise guidelines and standards are almost always expressed using a noise averaging method such as **L_{eq}**, **L_{dn}**, or **CNEL**.[8] Using one of these descriptors is a way for a location's overall noise exposure to be measured, realizing of course that there are specific moments when noise levels are higher and specific moments when noise levels are lower. For this report, the L_{dn} will be used because it is consistent with the guidelines for the City of Milpitas and the State of California.

4.11.1.2 Regulatory Background – Noise

The State of California and the City of Milpitas establish guidelines, regulations, and policies designed to limit noise exposure at noise sensitive land uses. The State of California Building Code and the Noise Element of the City's General Plan include the following applicable criteria:

Section 1208 of the 1998 California Building Code. New multi-family housing in the State of California is subject to the environmental noise limits in Chapter 1208A.8.4 of the California Building Code. The noise limit is a maximum interior noise level of 45 L_{dn} (same as DNL). Where exterior noise levels exceed 60 $L_{dn,}$ a report must be submitted with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit.

[8] **L_{eq}** stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time such as the noisiest hour. **L_{dn}** (also known as DNL) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. **CNEL** stands for Community Noise Equivalent Level; it is similar to the L_{dn} except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. As a general rule of thumb where traffic noise predominates, the CNEL and L_{dn} are typically within two (2) dBA of the peak-hour L_{eq}.

City of Milpitas General Plan. The Noise Element of the City of Milpitas General Plan identifies noise and land use compatibility standards for various land uses. The City's goal is to "Maintain land use compatibility with noise levels similar to those set by State guidelines."

Residential land uses are considered "normally acceptable" with an exterior day/night noise level of up to 60 dBA L_{dn} based on the assumption that buildings will use normal or conventional construction, without any special noise insulation. Residential land uses are considered "conditionally acceptable" with an exterior day/night noise level of up to 70 dBA L_{dn}. At this level new construction or development should be undertaken only after a detailed noise analysis of the noise reduction requirements is made and needed noise insulation features are included in the design. Where exterior noise levels exceed 60 dBA L_{dn}, habitable rooms of new multi-family residential developments are required to have an interior noise level of 45 dBA L_{dn} or less. In the City of Milpitas an exterior day/night noise level above 70 dBA L_{dn} is conditionally acceptable for residential development and a noise level above 75 dBA L_{dn} is unacceptable.

For common exterior open space areas of multi-family residential projects, levels up to 65 dBA L_{dn} are "normally acceptable" and exterior noise levels up to 70 dBA L_{dn} are considered "conditionally acceptable."

4.11.1.3 Existing Noise Conditions

As described previously, the site is located in an urbanized area of Milpitas and is currently undeveloped. Noise sensitive receptors in the area include the approved residential to the north and the existing residential neighborhood to the west and south of the site.

Noise Sources

The dominant source of noise in the project site area is vehicular traffic, particularly along South Main Street and South Abel Street. Other lesser environmental noise sources may include noise from aircraft overflights, infrequent train operations along the Union Pacific railway line east of the site, and light rail train activity north of the site. While the site is near the general flight path of the Norman Y. Mineta San José International Airport, aircraft flying overhead are not a substantial source of noise. The project site is not within the existing or projected future 60 L_{dn} contour of the airport.

Noise Level Measurements

In order to quantify the existing noise levels at the site, two 48-hour and two short-term noise measurements were taken at two locations. Location 1 was approximately 38 feet northeast of the South Abel Street median centerline, and location 2 was approximately 38 feet west of the South Main Street centerline.

The existing day-night average noise level (L_{dn}) at measurement location 1 was calculated to be 70 dBA. According to the site plan (refer to Figure 3), the planned minimum setback for the homes proposed along South Abel Street is approximately 45 feet from the centerline of the roadway. Future noise levels along the surrounding roadways are estimated to increase by about one decibel assuming a growth rate of one to two percent per year over the next 10 to 20 years. Including the one decibel noise increase, future exterior noise levels at the building face would be approximately 71 dBA $L_{dn.}$

The existing noise level at measurement location 2 (South Main Street) is approximately 69 dBA L_{dn}. Exterior noise levels at the proposed buildings face are approximately 69 dBA DNL for the units nearest South Main Street.

The Union Pacific railway tracks are on the east side of South Main Street behind the commercial uses facing the roadway. The infrequent train operations along the railway line are noticeable at the northeast corner of the project. Elevated light rail and light rail stations are also located approximately one-quarter mile to the north of the project site. The intermittent passing of light rail trains is noticeable at the location proposed for some of the units.

4.11.2 Environmental Checklist and Discussion

NOISE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project result in:						
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐	☐	1,2,3 13
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	☐	1,2,3 13
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	☐	1,2,3 13
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒	☐	☐	☐	1,2,3 13
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1,2,3

NOISE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project result in:						
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1,2,3

4.11.2.1 Noise Exposure Impacts to the Project

Exterior Noise

The City of Milpitas General Plan established a short-term goal of 65 dBA L_{dn} for outdoor activity areas adjacent to residences. Based on recent noise measurements taken on the project site and future estimated traffic noise levels, it is estimated that future residents will be exposed to exterior noise levels of 69 decibels at approximately 50 feet from the centerline of South Main Street and 71 decibels at approximately 55 feet from the centerline of South Abel Street.

The two outdoor common open space areas are proposed within the interior of the project site and would be shielded from traffic noise by the surrounding residential units. The proposed three store residential units reduce the noise level on the street frontage by more than six dBA. As a result, the noise levels in the proposed common open spaces would not exceed the noise standard identified as acceptable in the City's General Plan.

The private open spaces proposed for the project would be balconies for residences facing South Main Street and South Abel Street. While these private open space areas would be exposed to noise levels in excess of 65 dBA, residents have the option of using the common open space areas of the project site, which will be within the acceptable noise range for outdoor use areas. The communal open space areas on-site will total approximately 0.74 acres. The project is required to provide 0.48 acres of non-public open space. Therefore, the project meets the private open space requirement without the inclusion of the balconies facing Abel Street and South Main Street and having balconies with ambient noise levels in excess of acceptable City standards is a less than significant impact.

The project proposes a retail plaza area at the corner of Able Street and South Main Street. Depending on the type of retail establishments that occupy the site in the future, the area may provide outdoor seating for customers. As stated above, ambient noise levels in this area range from 69 to 71 dBA. While these noise levels may be considered a nuisance by some customers, the City has no established noise compatibility threshold for public outdoor seating areas associated with retail establishments. For this reason, implementation of the proposed project would not result in a significant impact on exterior public use areas.

Interior Noise

For new attached residential units, average interior noise levels cannot exceed 45 dBA pursuant to the noise standard established by the State Building Code and the City of Milpitas. Standard construction methods typically reduce interior noise levels 15 dBA (with windows open) to 25 dBA (with windows closed) compared to exterior noise levels. Where exterior noise levels exceed 60 dBA, such as the proposed project site, standard construction is not sufficient to reduce interior noise levels to state standards and additional measures such as sound rated windows and forced air ventilation must be included.

Based on the proposed site plan, residential buildings will be located a minimum of 45 feet from the centerline of South Main Street and South Abel Street. At 50-55 feet from the centerline, the exterior noise level would be approximately 69 to 71 dBA which could result in interior noise levels in excess of 45 dBA. Pursuant to the State Building Code, residences within 75 feet of the centerline of South Main Street and South Abel Street will be equipped with mechanical ventilation[9] to allow windows to be closed at the residents' discretion to reduce interior noise levels to 45 dBA L_{dn} or less. With the inclusion of mechanical ventilation, implementation of the proposed project will not expose future residents to unacceptable interior noise levels.

Impact NOI-1: Future residents would be exposed to exterior noise levels grater than 60 dBA DNL which exceeds the noise and land use compatibility standards presented in the City of Milpitas's General Plan. Interior noise levels would be expected to exceed 45 dBA DNL.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Noise Policy 6-I-1:* Use the guidelines in Table 6-1 (Noise and Land Use Compatibility) as review criteria for development projects.
- *Noise Policy 6-I-2:* Require an acoustical analysis for projects located within a "conditionally acceptable" or "normally acceptable" exterior noise exposure area. Require mitigation measures to reduce noise to acceptable levels.
- *Noise Policy 6-I-5:* All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.
- *Noise Policy 6-I-7:* Avoid residential DNL exposure increases of more than 3 dB or more than 65 dB at the property line, whichever is more restrictive.

[9] Mechanical ventilation would be air conditioning that would allow for the regulation of the interior temperature without having to open any windows.

Specific Development Project Mitigation Measures

MM NOI-1.1: Project-specific acoustical analyses are required to insure that interior noise levels will be reduced to 45 dBA L_{dn} or lower. Building sound insulation requirements shall need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to South Main Street and South Abel Street. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA L_{dn} or lower.

4.11.2.2 Project-Generated Traffic Noise Impacts

A substantial noise increase would occur if the project results in an increase of 3 dBA or greater at nearby sensitive land uses. Traffic volumes must double for noise levels to increase by 3 dBA. Based on the project traffic report, the proposed project would generate approximately 1,166 daily trips, which is not enough to double traffic volumes on South Main Street or South Abel Street. Once construction of the proposed project is complete, the project will not generate noise levels that will adversely impact the nearby residential neighborhood.

Traffic generated by the proposed residential development would not result in significantly increased traffic noise on the roadway network. (Less Than Significant Impact)

4.11.2.3 Short-Term Construction Impacts

Construction of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 decibels measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six decibels per doubling of distance between the source and receptor. Construction equipment would be located near adjacent residences, and the noise from construction would likely be an annoyance to these land uses. Due to the proximity of the sensitive receptors, this would be a significant temporary impact.

Impact NOI-2: The project site is bordered by existing residential land uses to the south, and commercial uses to the east and west. Noise generated by construction activities would have a significant temporary impact on nearby sensitive receptors.

Mitigation Measures:

General Plan Policies

The programs and policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development on-site will be subject to General Plan programs and policies, including the following:

- *Noise Policy 6-I-13:* Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact.

Specific Development Project Mitigation Measures

MM NOI-2.1: Pursuant to the City of Milpitas Municipal Code, no person shall engage or permit others to engage in construction of any building or related road or walkway, pool or landscape improvement or in the construction operations related thereto, including delivery of construction materials, supplies, or improvements on or to a construction site except within the hours of 7:00 AM to 7:00 PM on weekdays and weekends.

MM NOI-2.2: The contractor shall be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.

MM NOI-2.3: The contractor shall be required to use noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors.

MM NOI-2.4: The contractor shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator would respond to all complaints about noise and take the necessary steps to reduce the problem.

4.11.3 Conclusion

With implementation of the above mitigation and standard measures and General Plan Policies, the proposed project would not result in significant noise impacts. **(Less Than Significant Impact with Mitigation)**

4.12 POPULATION AND HOUSING

4.12.1 Setting

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

According to the Association of Bay Area Governments (ABAG) *Projections 2005*, the population in 2000 within the City of Milpitas's Sphere of Influence was 62,810 people in 17,167 households. For 2020, the projected population is 82,400 in 22,740 households. The average number of persons per household in Milpitas in 2000 was 3.47, an average which is projected to remain consistent though the year 2020.

The City of Milpitas is a job-rich city, and one of the fastest growing employment centers in Santa Clara County. Although Milpitas had a deficiency of jobs per employed resident in 1980, the City achieved a ratio of 1.34 jobs per employed resident in the year 2000. Despite this increase in jobs, only 21% of the workers in Milpitas actually live in the City.[10]

The proposed project would construct up to 126 residential units on the 2.75 acre site. Based on an estimate from the City of Milpitas, the average household size in the City is 2.69 persons per household. Therefore, the proposed project could provide housing for approximately 339 residents.

The increase of more than 330 residents would add to the City's population by approximately 0.005 percent. This increase represents an incremental portion of the 19,590 new residents in Milpitas predicted by the year 2020 in the report *Projections 2005*.

4.12.2 Environmental Checklist and Discussion

POPULATION AND HOUSING						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	☐	1,2,3
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1,2,3

[10] Milpitas General Plan, Land Use Element, 2.3. March 19, 2002.

POPULATION AND HOUSING						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1,2,3

Socio economic impacts are not considered environmental impacts, as defined by CEQA Guidelines Section 15131. The physical impacts, however, associated with the relationship between employment and housing include traffic, noise, and air quality impacts. These issues are discussed within their respective sections of this report.

The proposed development of the site with up to 126 residential units would not induce substantial population growth, nor would it displace existing housing or people. The proposed project would create additional residential development and will incrementally improve the jobs/housing balance in the City. Providing housing for more of the City's workers will help to ease overall traffic congestion, commute times, and regional air pollution levels. The population increase from the proposal represents a less than significant impact.

Since the project site is not developed, the proposed project will not displace existing housing or people.

Implementation of the proposed project would help improve the City's jobs/housing imbalance resulting in a beneficial impact.

4.12.3 Conclusion

Development of the proposed residential project would not create substantial new population growth and it would have a beneficial impact on the City's adverse jobs/housing imbalance. The proposed project, therefore, would not result in significant population or housing impacts. **(Less Than Significant Impact)**

4.13 PUBLIC SERVICES

4.13.1 Setting

4.13.1.1 Police Services

Police protection services would be provided to the project site by the City of Milpitas Police Department (MPD). Services are provided from one central station, located at 1275 North Milpitas Boulevard. The Department employs 95 sworn officers and operates 26 marked patrol cars.

The average response time within the City is approximately four minutes and 40 seconds. Highest priority is assigned to emergency calls where life-threatening conditions occur. The target response time for such emergency calls is three minutes. Currently, the average police response time for non-emergency calls within the City is estimated to be approximately five minutes.

4.13.1.2 Fire Services

Fire protection on the project site would be provided by the City of Milpitas Fire Department, which has four fire stations and an administration facility. The Milpitas Fire Department (MFD) is responsible for emergency medical services, rescue services, hazardous and toxic materials emergency response, coordination of City-wide disaster response efforts, enforcement of fire and life safety codes, enforcement of state and federal hazardous materials regulations, and investigation of fire cause, arson and other emergency events for cause and origin.

The closest fire station to the site is Station No. 1, located at 25 West Curtis Avenue, approximately one-half mile southeast of the site. Station No. 1 is typically staffed with three to four personnel.

Fire Station No. 4 is located at 775 Barber Lane, and the Fire Department's headquarters is located next to this station at 777 South Main Street, approximately 0.7 miles from the project site.

The emergency response time goal of the Fire Department is to deploy one engine to the scene of an emergency within four minutes. The Department's average response time to all calls is currently below the four minute response time goal.

The City also receives mutual fire aid from other municipalities under the Santa Clara County Mutual Aid Plan and Bay Area Intercounty Fire Mutual Aid Plan for Local Resources. The San José Fire Department and/or the Fremont Fire Department provide mutual aid to Milpitas in emergencies.

4.13.1.3 Schools

The project site is located within the Milpitas Unified School District (MUSD). The district serves 9,368 students in grades kindergarten through 12, with nine elementary schools, two middle schools, and two high schools.[11]

The nearest elementary school is Pearl Zanker Elementary School, located at 1585 Fallen Leaf Street, approximately 0.4 miles south of the project site on the west side of Main Street. The nearest middle

[11] Milpitas Unified School District. *Index of Schools*. May 12, 2006. http://www.musd.org.

school is Rancho Milpitas Middle School, located at 1915 Yellowstone Ave., approximately 3.2 miles east of the project site. The nearest high school is Calaveras Hills High School, located at 1331 E. Calaveras Blvd, approximately 2.8 miles northeast of the project site.

4.13.1.4 Parks and Recreation

The City of Milpitas provides 161.43 acres of City-owned park and recreation facilities to its citizens,[12] in addition to the 1,539 acres of Ed Levin County Park, which is a regional park that is also within the City's boundaries.

The nearest park to the project site is Pinewood Park, located at the intersection of Lonetree and Starlite Drive, approximately 0.4 miles southeast of the project site. Pinewood Park is an 8-acre park with tennis courts, a tot lot, barbecue pits, a basketball hoop, and picnic tables

4.13.1.5 Libraries

Milpitas is served by the Santa Clara County Library System, which consists of eight libraries and one bookmobile. The Santa Clara County Libraries are governed by the Joint Powers Authority, which is comprised of one City Council member from each of the eight member City jurisdictions and two members from the Santa Clara County Board of Supervisors. Property taxes pay for more than half the cost of operating the Library. In addition to the property tax, property within the district is also assessed for enhanced service through a County Service Area.

The project area is served by the Milpitas Library, located at 40 North Milpitas Boulevard. The Milpitas library provides programs and services for adults, teens, and children, an online public access catalog, CD-ROM and online data bases, Internet access, over 200,000 volumes, audio and video cassettes, DVDs and magazines.

The Milpitas Library has approximately 50,000 visitors per month and circulates approximately 116,000 items a month. The City completed a *Library Needs Assessment* in June 2002. The assessment reviewed the use of the existing facilities, benchmark library size, staffing, and operations with comparable libraries, and assessed the community's library needs. The assessment compared the Milpitas Library with nine other libraries and concluded that the Milpitas Library is deficient in areas such as square footage and collection size.

[12] City of Milpitas General Plan Open Space Element, 2001. http://www.ci.milpitas.ca.gov/citydept/planning/general_plan/ch4.pdf.

4.13.2 Environmental Checklist and Discussion

PUBLIC SERVICES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
Fire Protection?	☐	☐	☒	☐	☐	1,2,3
Police Protection?	☐	☐	☒	☐	☐	1,2,3
Schools?	☐	☐	☒	☐	☐	1,2,3
Parks?	☐	☐	☒	☐	☐	1,2,3
Other Public Facilities?	☐	☐	☒	☐	☐	1,2,3

4.13.2.1 Fire and Police Service

The proposed project will be required to conform to current fire and building codes, including features that would reduce potential fire hazards and appropriate safety features to minimize criminal activity. The project design shall be reviewed by the MFD and MPD to ensure conformance with current codes.

Although the proposed project would incrementally increase demand for fire and police emergency services, it will not require the development of new facilities and, therefore, will not result in a significant physical impact on the environment.

4.13.2.2 Schools

Using the MUSD student generation rate of 0.25 students per multi-family dwelling unit, the proposed residential units would generate approximately 32 students. Based on MUSD's capacity and current enrollment, the district would be able to accommodate students generated from the proposed project (see Table 2).

TABLE 2 Local School Capacity		
School	**Capacity**	**2006 Enrollment**
Pearl Zanker Elementary	605	463
Rancho Milpitas Middle School	861	676
Milpitas High School	3312	2945

The project would add additional residents to the project area, and therefore, would increase the demand for local schools. The addition of 32 students in grades K-12, however, will not require the construction or expansion of local school facilities.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would partially offset project-related increases in student enrollment. The proposed project would increase the number of school children attending public schools in the project area, but would mitigate its impact through compliance with state law regarding school mitigation.

4.13.2.3 Parks

The Milpitas Midtown Specific Plan sets standards for new park and recreation facilities within the Midtown Specific Plan area. For new developments within the Midtown Specific Plan Area, 3.5 acres of public and private park space are required per 1,000 residents. Up to 1.5 acres per 1,000 residents can be developed as usable on-site common and/or private open space within new residential developments, and the remaining 2.0 acres must be developed as public parkland.

Based on a projected population increase of 339[13] residents by the development of the project, approximately 1.11 acres of new parkland (0.64 public acres and 0.48 private acres) will be required to serve the proposed project consistent with City policies. The project is proposing 0.74 acres of usable common open space and 0.20 acres of private open space (balconies). For residential developments within the Midtown Specific Plan area, private open space includes patios and balconies. The total private open space provided would equal 0.94 acres, which exceeds the City's requirement of 0.48 acres. The project proposes zero acres of public open space. The City offers a park in-lieu fee for projects which do not meet parkland requirements. The developer is required to pay a park in-lieu fee if the proposed project does not meet the parkland requirement. As a result, the developer will be required to pay in-lieu fees equal to the value of 0.64 acres of land in Milpitas. The average value of one acre of land in Milpitas (2006) is $2,199,780.

4.13.2.4 Libraries

The County plans to demolish the existing library and rebuild a new, 60,000 square foot library at the historic Milpitas Grammar School site, located at 160 North Main Street, in the Midtown

[13] Based on an estimate by the City of Milpitas of 2.69 persons per unit.

redevelopment area. Construction is slated to begin in January 2007 and the library is expected to open in 2009.

The development of the proposed project would add up to approximately 338 additional residents to the City of Milpitas. An increase in residential development will result in an incremental increase in need for library services. It is not anticipated, however, that the proposed project would require the construction of a new library facility, other than that already proposed and planned for by the City.

4.13.3 Conclusion

The proposed project would incrementally increase demand for public services and facilities within the City. The project would not result in substantial adverse physical impacts associated with a need for new facilities in order to maintain acceptable levels of service or performance objectives for public services. **(Less Than Significant Impact)**

4.14 RECREATION

4.14.1 Setting

As described in the previous section, the City of Milpitas manages approximately 161.4 acres of neighborhood and community parkland. The City provides developed parklands, open space, and community facilities to serve its residents. Park and recreation facilities vary in size, use, type of service, and provide for neighborhood, citywide, and regional uses. The City's Departments of Recreation Services and Public Works are responsible for the design, construction, operation, and maintenance of all City park and recreational facilities.

The City's General Plan has established level of service benchmarks for parks and community centers. The City has a service level goal of five acres of neighborhood and community serving parkland per 1,000 residents outside of the Midtown Specific Area and 3.5 acres within the Midtown Specific Area. This requirement can be fulfilled through land dedication or through equivalent in-lieu fees. Up to 2.0 acres per 1,000 residents can be developed as usable on-site common or private open space within new residential developments, and the remaining three acres must be developed as public parkland.[14]

There is one park located within the site area: Pinewood Park is 8 acres in size and is located along Lonetree and Starlite Drive, approximately 0.4 miles southwest of the site. A larger conglomeration of three neighborhood parks (Parc Metro East, Middle and West) is located approximately 1.1 miles north of the project site at Parc Metro and Curtis, east of Main Street.

In addition to neighborhood parks, community recreation services are available throughout the City. These include the Milpitas Community Center located at 457 E. Calaveras Boulevard, the Milpitas Sports Center located at 1325 E. Calaveras Boulevard, and the Milpitas Teen Center also located at 1325 E. Calaveras Boulevard.

4.14.2 Environmental Checklist and Discussion

RECREATION						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐	☐	1,2,3

[14] City of Milpitas General Plan Open Space and Conservation Element, 2002. Policy 4.a-I-2.

RECREATION						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐	☐	1,2,3

Future residents of the proposed project site would use recreational facilities in the area. Given the small size of the project and the existing recreational facilities in the area, the project would not create significant new demand for recreational services or facilities. The proposed project will also provide 0.74 acres of public open space, 0.20 acres of private open space, a fitness center, a swimming pool, and a community recreation room for private events.

Given the number of parks and recreation facilities in the area, the small number of residents generated by the proposed project, and the project's proposed on site recreational facilities and open space, the project is not anticipated to significantly impact park facilities or require construction of new facilities.

4.14.3 Conclusion

The proposed project would incrementally increase the demand for recreational services in the area. However, because of the existing recreational facilities in the project areas and the open space proposed by the project, the project would not result in significant adverse impacts to recreational facilities. **(Less Than Significant Impact)**

4.15 TRANSPORTATION

The information provided in this section is based on a traffic analysis prepared by *Hexagon Transportation Consultants* in April 2006. The complete traffic report is provided in Appendix F.

4.15.1 Setting

4.15.1.1 Existing Roadway Network

The existing roadway network serving the project area includes regional facilities, such as freeways and expressways, as well as a grid pattern of local roadways such as arterials, collectors, and local streets. Regional and local access to the project site is provided via the streets described below.

Regional Access

Regional access to the project site is provided via I-880, I-680, and SR 237/Calaveras Boulevard. These roadways are described below.

I-680 is a north/south freeway traversing the eastern portion of Milpitas. This freeway connects the inland East Bay communities to the north with San José to the south. I-680 has six mixed flow lanes north of SR 237 and eight mixed flow lanes south of SR 237. A southbound High Occupancy Vehicle (HOV) lane is currently in operation north of Calaveras Boulevard.

I-880 is a north/south freeway providing regional access from East Bay cities to San José, where it becomes SR 17. Within the City of Milpitas, I-880 is a six-to-eight lane freeway. The initial construction phases of the SR 237/I-880 interchange have recently been completed. South of Montague Expressway, I-880 has recently been widened to six lanes.

State Route 237/Calaveras Boulevard is an east/west arterial between I-880 and I-680 and generally provides six travel lanes (four on the Union Pacific overcrossing). West of I-880, this roadway becomes a freeway with four mixed flow lanes and two High Occupancy Vehicle (HOV) lanes. Calaveras Boulevard accommodates a significant amount of regional through traffic during the peak commute hours. Milpitas staff estimate that approximately 50 percent of the peak hour traffic between I-680 and I-880 is generated outside of Milpitas. The predominate direction of travel is westbound in the morning and eastbound during the afternoon.

Local Access

Local access to the site is provided by Great Mall Parkway, South Main Street and South Abel Street. These roadways are described below.

Great Mall Parkway is an east/west arterial located just south of the Great Mall. Great Mall Parkway generally provides three travel lanes in each direction (east and west) with a median dividing the roadway. The Alum Rock/Santa Teresa light rail line runs along the median from west of I-880 and becomes elevated above the median just east of I-880. The elevated LRT is located at Great Mall Parkway and Main Street just north of the project site. The peak direction of travel is westbound in the morning, and eastbound in the evening.

Main Street is a four-lane, north/south arterial connecting Calaveras Boulevard to the north and San José via Montague Expressway to the south. Main Street primarily serves as access to the Great Mall and the Main Street business district.

South Abel Street is a four-lane, north/south arterial extending from North Milpitas Boulevard to South Main Street. East of I-880, South Abel Street terminates at South Main, at the project site.

Montague Expressway is an east/west expressway in southern Milpitas that generally provides six travel lanes. It is operated by the Santa Clara County Roads and Airports Department. The peak direction of travel is westbound in the morning, and eastbound in the evening. This facility also provides HOV lanes both during the AM peak hours in the westbound direction and PM peak hours in the eastbound direction. Montague Expressway is a designated Congestion Management Plan (CMP) regional facility that experiences moderate congestion during both commute periods.

4.15.1.2 Existing Bus Transit Service

The Santa Clara Valley Transportation Authority (VTA) operates most public transit in Santa Clara County. The Great Mall Transit Center is located approximately ¼ mile north of the project site, just on the northern side of the Great Mall Parkway. The Great Mall Transit Center is a regional transit hub serving several local and commuter VTA bus routes as well as AC Transit routes serving the East Bay.

Route 77 provides service between the Eastridge Shopping Center and the Great Mall via King and McCandless. Bus Route 77 operates with 30-minute headways during weekday peak hours and between 30-minute and one hour headways during the weekend.

Route 33 provides service between Tasman and First in San José and the Great Mall Transit Center via Highway 237 and Great Mall Parkway. Route 33 operates with approximately 30 minute headways during weekday and weekend peak hours and one hour headways during off-peak hours.

Route 47 provides service between Washington and Escuela via Park Victoria in Milpitas and the Great Mall Transit Center via Park Victoria and Calaveras. Headways are approximately 25-35 minutes during weekday and weekend peak hours, and approximately 45 minutes during weekday and weekend off-peak hours.

Route 46 provides service between Washington and Escuela in Milpitas and the Great Mall Transit Center via Yellowstone. Headways are approximately 25-30 minutes during weekday and weekend peak hours, and approximately 45 minutes during weekday and weekend off-peak hours.

Route 66 provides service between Santa Teresa Hospital in San José and Dixon Landing Road in Milpitas via Snell, First Street, Hedding, Main Street, South Abel Street, Milpitas High School and Russell Middle School. Route 33 operates at approximately 15-20 minute headways during weekday peak hours, 30 minute headways during weekend peak hours, and 30-60 minute headways during off-peak weekday and weekend hours.

Route 70 provides service between the Capitol LRT station in San José and the Great Mall Transit Center via Capitol, King, Jackson, Hostetter, Morrill and Montague. Route 33 operates with approximately 15-20 minute headways during weekday peak hours, 20 minute headways during

weekend peak hours, 45 minute headways during off-peak weekday hours, and 60 minute headways during off-peak weekend hours.

Route 71 provides service to the Eastridge shopping mall in San José and the Great Mall Transit Center via Quimby, White and Montague. Headways are approximately 30 minutes during weekday and weekend peak hours, and approximately 45 minutes during weekday and weekend off-peak hours.

Route 104 provides express service between Penitencia Creek Transit Center in San José, Great Mall Transit Center and Palo Alto via Montague, Main, Abel, Highway 237, Highway 101, Old Middlefield Road and Page Mill Road. There are three eastbound and three westbound runs during weekday peak AM and PM hours only.

Route 140 provides express service to Fremont BART, Great Mall Transit center, Great America and Sunnyvale via Mission Boulevard, Highway 680, Great Mall Parkway, Tasman, Old Ironsides, Scott and Fair Oaks. Express service operates during weekday AM and PM peak hours, offering five northbound and five southbound runs.

Route 180 provides express service to Fremont BART, the Great Mall Transit Center, and San José Diridon station via Highway 680, Great Mall Parkway, First Street, and San Fernando. Route 180 operates with approximately 20 minute headways during weekday peak hours, 30 minute headways during weekend peak hours, 60 minute headways during off-peak weekday hours, and 60 minute headways during off-peak weekend hours.

Route 321 provides limited service between the Great Mall Transit Center and the Lockheed Martin campus in Sunnyvale via Great Mall Parkway, Montague Expressway and Lawrence Expressway. Limited service is offered on weekdays only, with three westbound runs during the AM peak, and three eastbound runs during the PM peak.

4.15.1.3 Existing Light Rail Transit (LRT) Service

VTA currently operates the 30.5-mile VTA LRT system extending from southern San José through downtown to the northern areas of Milpitas, San José, Santa Clara, Mountain View, Campbell and Sunnyvale. Service operates 24 hours a day, with trains arriving every 15 minutes during the peak usage periods, and carries over 22,700 riders on an average weekday. The Alum Rock/Santa Teresa LRT line runs north of the site parallel to Great Mall Parkway. The closest LRT station is the Great Mall Station, which is an elevated station. The Alum Rock/Santa Teresa LRT line provides a links to other VTA LRT lines, Caltrain, ACE Train, and the Capitol Corridor.

4.15.1.4 Existing Bicycle and Pedestrian Facilities

According to the City of Milpitas Bikeway Master Plan and the Valley Transportation Agency (VTA) Santa Clara Valley Bikeways Map, there are a few city designated bikeways within the vicinity of the project site.

- Main Street has Class II bicycle lanes from Calaveras Boulevard to Montague Expressway, running north and south. Main Street has a Class III bike route from Calaveras Boulevard north to South Abel Street.

- South Abel Street has a Class I bicycle lane from Great Mall Parkway to just south of Calaveras Boulevard. Bikeways are planned along South Abel Street south of Great Mall Parkway and north of Calaveras Boulevard.

- Great Mall Parkway has Class II bicycle lanes within Milpitas City limits.

Sidewalks are found along virtually all previously-described local roadways in the study area and along the commercial streets and collectors near the site.

Bicycle facilities in the area include striped bicycle lanes on roadways and bicycle corridors, which are identified corridors between jurisdictions. Class II bikeways are provided on South Main Street in the site vicinity. Class II bikeways are bicycle lanes on the edge of roadways reserved for the exclusive use of bicycles, so designated with special signing and pavement markings.

Pedestrian facilities in the site area consist primarily of sidewalks and crosswalks at intersections with pedestrian push-buttons.

4.15.1.5 Existing Intersection Operations

Methodology

Traffic conditions at the study locations were evaluated using level of service (LOS). Level of service is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The correlation between average delay and level of service is shown in Tables 3 and 4.

TABLE 3
Signalized Intersection Level of Service Definitions Based on Delay

Level of Service	Description	Average Control Delay per Vehicle[15]
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C/ ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

[15] Measured in Seconds.

TABLE 4 Unsignalized Intersection Level of Service Definitions Based on Delay		
Level of Service	**Description**	**Average Control Delay per Vehicle[16]**
A	Operations with very low delay occurring with favorable progression.	10.0 or less
B	Operations with low delay occurring with good progression.	10.1 to 20.0
C	Operations with average delays resulting from fair progression.	20.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C/ ratios.	35.1 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. This is considered to be the limit of acceptable delay.	55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation and poor progression.	Greater than 80.0

Existing Intersection Level of Service

The City of Milpitas considers intersection operations of LOS D or better to be acceptable. The CMA identifies LOS E or better as acceptable for regional intersections identified in the adopted CMP.

Analysis of the existing intersection operations found that, the two of the study intersections currently operate at an unacceptable LOS. The results of the analysis under existing conditions are summarized in Table 5. Intersections operating at an unacceptable LOS are shown in bold print.

TABLE 5 Existing Intersection Levels of Service				
Intersection	**AM Peak Hour**		**PM Peak Hour**	
	Delay	**LOS**	**Delay**	**LOS**
I-880-SB Ramps/Tasman Drive	19.6	B	16.0	B
I-880-NB Ramps/Great Mall Parkway	36.2	D	37.4	D
S. Abel Street/Great Mall Parkway	34.4	C	34.8	C
S. Main Street/Great Mall Parkway	24.5	C	38.2	D
McCandless Drive/Great Mall Parkway	15.1	B	22.9	C
E. Capitol Ave/Montague Expwy*	45.0	D	64.7	E
S. Abel Street/Capitol Avenue	20.5	C	18.7	B
S. Abel Street/S. Main Street	13.5	B	8.8	A
S. Main Street/Montague Expwy*	**41.7**	**D**	**100.6**	**F**
Montague Expwy/Trade Zone Blvd*	**35.0**	**C**	**88.7**	**F**
** denotes a CMP Intersection*				

Background Conditions

For the purpose of this analysis, it is assumed that the future near-term roadway network and intersection lane configuration under existing conditions would be same as the existing roadway

[16] Measured in Seconds.

network, with one exception. The following intersection improvements are planned under background conditions as part of the City of Milpitas Capital Improvement Project.

- South Main Street and Montague Expressway: a second southbound left-turn lane will be added to the intersection.
- I-880 northbound ramps and Great Mall Parkway: a southbound left-turn lane will be added to the intersection.
- Main Street and Abel Street: the existing separate westbound right-turn lane on Main Street will be eliminated.

Background peak-hour traffic volumes were calculated by adding estimated traffic from approved but not yet constructed development to the existing conditions.

Background Intersection Level of Service

Analysis of the background intersection operations found that four of the study intersections will operate at an unacceptable LOS with the addition of background traffic. The results of the analysis under background conditions are summarized in Table 6. Intersections operating at an unacceptable LOS are shown in bold print.

TABLE 6
Background Intersection Levels of Service

Intersection	AM Peak Hour		PM Peak Hour	
	Delay	LOS	Delay	LOS
I-880-SB Ramps/Tasman Drive	22.2	C	36.0	D
I-880-NB Ramps/Great Mall Parkway	47.2	D	**59.6**	**E**
S. Abel Street/Great Mall Parkway	40.4	D	38.9	D
S. Main Street/Great Mall Parkway	25.5	C	36.9	D
McCandless Drive/Great Mall Parkway	15.3	B	21.6	C
E. Capitol Ave/Montague Expwy*	67.2	E	**93.7**	**F**
S. Abel Street/Capitol Avenue	20.0	C	17.7	B
S. Abel Street/S. Main Street	13.2	B	8.8	A
S. Main Street/Montague Expwy*	54.4	D	**129.1**	**F**
Montague Expwy/Trade Zone Blvd*	41.5	D	**117.8**	**F**

** denotes a CMP Intersection*

4.15.2 Environmental Checklist and Discussion

TRANSPORTATION/TRAFFIC						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) 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 of roads, or congestion at intersections)?	☐	☐	☒	☐	☐	1,2,3,6
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐	☐	1,2,3,6
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1,2,3,6
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐	☐	1,2,3,6
5) Result in inadequate emergency access?	☐	☐	☒	☐	☐	1,2,3,6
6) Result in inadequate parking capacity?	☐	☐	☒	☐	☐	1,2,3,6
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒	☐	1,2,3,6

4.15.2.1 Project Impacts

In addition to the checklist above, thresholds of Significance consistent with the City of Milpitas and the CMP conclude that a traffic impact is considered significant if the project would:

- The level of service at an intersection drops below LOS D at local intersections or LOS E at CMP intersections when project traffic is added; or
- An intersection that is operating below the acceptable LOS standard under background conditions has an increase in critical delay of four or more seconds and the demand-to-capacity ration (V/C) is increased by more than 0.1 when project traffic is added.

Trip Generation Rates

Based upon the Trip Generation Comparison Analysis conducted by *Hexagon Transportation Consultants*, the proposed project would generate approximately 1,166 daily trips (84 trips in the AM Peak Hour and 109 trips in the PM Peak Hour). Because the site is undeveloped, there are no trips currently generated by the project site.

Intersection Level of Service Analysis

The results of the level of service analysis show that the same four intersections operating at LOS E and F under background conditions would do so under project conditions.

- The intersection of I-880 Northbound Ramps and Great Mall Parkway would operate at LOS E during the PM peak hour.
- The intersection of Montague Expressway and Main Street would operate at LOS F during the PM peak hour.
- The intersection of McCandless Drive/Trade Zone Boulevard and Montague Expressway would operate at LOS F during the PM peak hour.
- The intersection of Montague Expressway and Great Mall Parkway/Capitol Avenue would operate at LOS F during the AM and PM peak hours.

The remaining study intersections would continue to operate at LOS D or better.

Table 7 compares project conditions to background conditions, and identifies the incremental impact from project traffic on each study intersection.

TABLE 7
Project Intersection Level of Service

Intersection	Peak Hour	Background		Project Conditions			
		Ave. Delay	LOS	Ave. Delay	LOS	Inc. in Crit. Delay	Inc. in Crit. V/C
I-880-SB Ramps/Tasman Drive	AM	22.2	C	22.2	C	0.0	0.001
	PM	36.0	D	36.5	D	1.3	0.004
I-880-NB Ramps/Great Mall Pkwy	AM	47.2	D	47.3	D	0.1	0.001
	PM	**59.6**	**E**	**60.5**	**E**	**1.4**	**0.006**
S. Abel St./Great Mall Pkwy	AM	40.4	D	40.6	D	0.3	0.005
	PM	38.9	D	39	D	0.0	0.003
S. Main St/Great Mall Pkwy.	AM	25.5	C	27	C	0.2	0.002
	PM	36.9	D	37.1	D	0.3	0.007
McCandless Dr/Great Mall Pkwy.	AM	15.3	B	15.3	B	0.0	0.000
	PM	21.6	C	21.6	C	0.0	0.001
E. Capitol Ave/Montague Expwy.*	**AM**	**67.2**	**E**	**67.9**	**E**	**1.8**	**0.003**
	PM	**93.7**	**F**	**94**	**F**	**0.7**	**0.002**
S. Abel Street/Capitol Avenue	AM	20.0	C	20	C	0.0	0.001
	PM	17.7	B	17.6	B	-0.2	0.003

TABLE 7 *Continued*
Project Intersection Level of Service

Intersection	Peak Hour	Background		Project Conditions			
		Ave. Delay	LOS	Ave. Delay	LOS	Inc. in Crit. Delay	Inc. in Crit. V/C
S. Abel Street/S. Main Street	AM	13.2	B	13.8	B	0.2	0.014
	PM	8.8	A	9.7	A	0.2	0.014
S. Main St./Montague Expwy*	**AM**	**54.4**	**D**	**55.8**	**E**	**2.4**	**0.007**
	PM	**129.1**	**F**	**129.7**	**F**	**0.3**	**0.001**
Montague Expwy/Trade Zone Blvd.*	AM	41.5	D	41.7	D	0.4	0.002
	PM	**117.8**	**F**	**119.6**	**F**	**2.9**	**0.006**

* Denotes CMP intersection

Traffic from the proposed project would not cause the LOS of any local Milpitas intersection to drop below LOS D or any CMP intersection to drop below LOS E in either the AM or PM Peak Hour. For intersections that operate below the established LOS standards under background conditions, the proposed project will not increase the critical delay of these intersections by four seconds or increase the V/C by more than 0.01. As a result, implementation of the proposed project will have a less than significant impact on signalized intersections.

While the project will not result in a significant impact to any signalized intersection, the project will contribute traffic to four intersections currently operating at an unacceptable LOS. To offset the effects of a project's traffic at impacted intersections, the City of Milpitas requires projects to pay a "fair share" contribution for traffic improvement costs. Currently, the City and County have plans to widen Montague Expressway. Since the proposed project would add traffic to three impacted intersections along Montague Expressway, the project would be required to make a monetary contribution toward the Montague Expressway improvements, as determined by the City.

4.15.2.2 North San José Deficiency Plan Analysis

This project will contribute traffic to some of the CMP roadways within the adopted North San José Deficiency Plan, which was approved under the CMP. Under background conditions the 22-intersection average delay was 77 seconds. With the addition of project traffic, the 22-intersection average would remain 77 seconds. According to the north San José Deficiency Plan (NSJDP) impact criteria, the proposed project would not have a significant impact on the NSJDP.

4.15.2.3 Parking

Parking for the proposed project would be provided on-site in a one-story parking garage and in a surface parking lot. Based on the City of Milpitas Zoning Ordinance and the Midtown Specific Plan, one-bedroom units are required to have 1.5 covered parking spaces per unit, and units with two or more bedrooms are required to have two covered parking spaces per unit. In addition, the project must provide guest parking (covered or uncovered) equal to 15 percent of the total resident parking requirement. Retail commercial is required to provide one space per 200 square feet of floor space. The City of Milpitas allows a 20 percent reduction in required parking for residential projects within

2,000 feet of a light rail station. This results in a total residential parking requirement of 217 spaces (189 resident and 28 guest) and a retail parking requirement of 14 spaces.

The project proposes 226 covered parking spaces in the garage (206 for residents and 20 shared retail/resident parking spaces) and 36 uncovered parking spaces in the surface parking lot (for guests) for a total of 262 parking spaces. Of the 206 assigned resident parking spaces, 28 will be tandem parking spaces. At this time it is unknown which units would be assigned the proposed tandem parking spaces; however, it is known that the tandem parking spaces will only be assigned to multi-bedroom units. Even with the proposed tandem parking spaces, the project will meet the City of Milpitas residential parking requirement. The project will exceed the guest and retail parking requirement

4.15.2.4 Site Access

The project proposes two full access driveways on South Main Street providing access to the parking garage. Both driveways would have one inbound lane and one outbound lane. The project's northernmost driveway would be a full access driveway, while left turns into the project site from northbound Main Street would not be possible at the southernmost driveway location due to the new raised center median as part of the Main Street Plan Line Study project.

ITE standards for driveway design and location were used to evaluate the project driveways. The standards for commercial driveways were used since ITE defines commercial driveways as those serving more than four dwelling units. ITE recommends the following standards for two-way commercial driveways:

- Widths between 30 to 40 feet and 15-feet radii (driveways with low-volume activity may have widths of 24 feet, providing that 20-foot radii are used).
- Spacing of at least 35 feet apart.
- 51-150 feet of frontage for two driveways.

There is approximately 630 feet of property frontage on South Main Street, which is sufficient for the two driveways. The two driveways on South Main Street are located approximately 300 feet apart. The northernmost driveway is 26 feet wide and the southernmost driveway is 24 feet wide. The project driveways would meet all of the above criteria with one exception: the driveways as proposed are "dust pan" style driveways with no curb returns. According to the ITE recommendations for driveways with low-volume activity, both driveways should have curb returns with 20-foot radii.

According to the site plan, both driveways would provide on-site storage for only one outbound vehicle. An outbound vehicle queue of more than one vehicle at either driveway location would temporarily block other vehicles parked perpendicularly along the drive aisles within the parking garage. Based on the estimated outbound trips and low conflicting traffic volumes on South Main Street, however, any on-site queuing and associated vehicle delays that would occur on-site would be minimal.

4.15.2.5 Main Street Plan Line Study

The Main Street Plan Line Study project will create a new image and aesthetic for South Main Street and Abel Street between Great Mall Parkway and Montague Expressway through new median

islands and other streetscape improvements. Planned improvements include enhanced landscaping, decorative street lighting, and pedestrian and bicycle improvements. The project frontage will need to match the City's Plan Line Study so that the streetscape elements on South Main and Abel Streets are consistent. Installation of the median island will result in the elimination of the separate westbound right-turn lane on Main Street. The elimination of the separate westbound right-turn lane will not impact roadway operations around the project site. The applicant may, however, be required to pay a "fair share" contribution towards the Main Street Plan Line Study project, as determined by the City of Milpitas.

4.15.3 Conclusion

Implementation of the proposed project would have a less than significant transportation impact. **(Less Than Significant)**

4.16 UTILITIES AND SERVICE SYSTEMS

4.16.1 Setting

4.16.1.1 Water Service

Water for the project site is currently provided by the City of Milpitas. The City purchases water from two major sources. The San Francisco Public Utility Commission (SFPUC) provides 65% of water supplied and the Santa Clara Valley Water District (SCVWD) provides 35% of water. The proposed project site is within the SFPUC wholesale distribution area.

There is currently an 8-inch water main located in South Main Street and South Abel Street that would serve the project site. From the 8-inch main line, there will be one 6-inch line that will connect to the project site from South Abel Street.

Recycled Water

The City of Milpitas purchases water from the South Bay Water Recycling Program through a contract with the City of San José. The San José/Santa Clara Water Pollution Control Plant (WPCP) produces the recycled water for distribution. The WPCP treats water to tertiary levels for discharge into the San Francisco Bay. A portion of the water supply is generated by a reclaimed water system which uses treated wastewater from the San José/Santa Clara Water Pollution Control Plant for irrigation and industrial purposes. The proposed residential development's homeowner's association (HOA) will be required to convert the irrigation system to recycled water when recycled water becomes available.

4.16.1.2 Sanitary Sewer/Wastewater Treatment

The Milpitas Sanitary Sewer Collection System is owned and maintained by the City of Milpitas. Wastewater from the City of Milpitas is treated at the San Jose/Santa Clara Water Pollution Control Plant, located near Alviso. In 2001, the City of Milpitas discharged 9.0 million gallons per day (mgd) of waste water and, as of July 2006, is contractually limited to a flow of 13.5 mgd.

There is currently one 8-inch sanitary sewer line located in South Main Street and one 8-inch line located in South Abel Street. From the 8-inch line located in South Main Street there will be two 8-inch lines that connect to the project site. The 8-inch sewer line from South Abel Street will have one 6-inch sewer line that will connect to the project site.

4.16.1.3 Storm Drainage System

The City of Milpitas owns and maintains the storm drainage system which serves the project site. The project site has a 12-inch storm drain along the western boundary of the site that would connect to the existing 36-inch storm drain line located in Main Street. No storm drain outfalls on-site would connect directly to Penitencia Creek.

4.16.1.4 Solid Waste

BFI provides residential and commercial solid waste and recycling collection services for the City of Milpitas. The City has contracted with Newby Island Landfill for disposal capacity for all of the City's franchised municipal solid waste.

4.16.2 Environmental Checklist and Discussion

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

4.16.2.1 Water Supply Impacts

The 2002 Water Master Plan assumed that the project site would be developed with a commercial land use, based on the Midtown Specific Plan. Based on the planned and approved commercial land use, the City estimated that the developed project site would use 19,584 gallons per day (gpd) of water.

Using the criteria established by the City's Water Master Plan, the proposed project would generate a total base water demand[17] of approximately 30,764 gpd. This is 11,180 gpd more than the Water Master Plan base water flow (bwf) estimated for the site under the existing land use/zoning designation (see Table 8).

TABLE 8
Additional Water Capacity Needs Above Master Plan Amounts

Land Use Code	BWF
Current Allowed Use – Commercial	19,584
Proposed Land Use – Residential/Commercial	30,764
Net Increase In BWF (above Master Plan)	11,180

The project site will be supplied with water purchased from the SCVWD which receives its water supply from a variety of sources including local groundwater, imported water, local surface water, and recycled water. To be supplied by the SCVWD, the project will need to connect to the Santa Clara Valley Water source pipeline. The proposed project would result in a minor net increase in water demand compared to the planned commercial land use and, based on the Midtown Specific Plan, there is sufficient water supply available to provide service to the proposed project. To reduce potable water demand, however, the development will incorporate water conservation practiced to the maximum extend practicable in accordance with City policies, and will also utilize recycled water.

The existing water supply lines that serve the project site have sufficient capacity to transport the project water demand. Implementation of the proposed project will not require new or upgraded water supply lines.

City development policies will require the developer to design and install all water mains/lines necessary to serve the project (including fire flow) sized in accordance with the City's Water Master Plan. The developer will also be required to purchase adequate public system water capacity above the capacities assumed in the Water Master Plan. In addition, the developer will be required to pay all water related fees including connection fees and water treatment plant fees. No new or expanded entitlements will be required to supply water to the site.

4.16.2.2 Wastewater Impacts

Based on the estimated water usage for the assumed commercial land use on-site in the 2002 Water Mater Plan, the project site would generate approximately 8,160 gpd of wastewater. The proposed residential project would generate approximately 30,679 gallons of wastewater per day which is

[17] Base Water Demand is different than the total water demand calculated in the Water Supply Assessment. The Base Water Demand does not include water necessary for landscaping.

22,519 gpd more than the assumed commercial land, based on land use assumptions of the Water Master Plan (see Table 9). While the sanitary sewer lines that serve the project site are of sufficient size to accommodate the project, the increase in wastewater flows will effect sewer conveyance capacity, the main pump system capacity, and the Water Pollution Control Plant Capacity.

TABLE 9
Additional Sewage Capacity Needs Above Master Plan Amounts

Land Use Code	BWF
Current Allowed Use – Commercial	8,160
Proposed Land Use – Residential/Commercial	30.679
Net Increase In BWF (above Master Plan)	22,519

The City of Milpitas recently increased its wastewater capacity[18] based on the proposed build-out of the Midtown Specific Plan and the findings of the 2004 Sewer Master Plan. It is anticipated that even with the increased capacity, city-wide demand will exceed the available capacity in the near future. At this time, however, there is sufficient capacity to support the proposed project[19].

As a condition of project approval by the City of Milpitas, the developer will design and construct all sanitary sewers in accordance with the City's Sewer Master Plan and the City Engineering Standards and Guidelines. In addition, the developer will purchase adequate public system sewage capacity. Fees shall consist of treatment plant fees up to the levels established in the Master Plan, plus proportional replacement costs for a new main sewage pump station and regional plant capacity above the master plan capacities, as determined by the City. The acquisition of additional plant capacity will not require the expansion of the existing wastewater treatment facility or construction of a new facility. The proposed project will not cause the wastewater treatment plant to exceed its existing capacity.

4.16.2.3 Storm Drainage Impacts

The project proposes to connect to the existing storm drainage lines located in South Main Street and South Abel Street. The project site is currently 100 percent pervious. Implementation of the proposed project would increase the impervious surface area of the project site by approximately 98 percent.

A Storm Drain Master Plan (SDMP) was prepared for the Midtown Specific Plan EIR (Oct, 2001) to determine if the existing storm drainage system had sufficient capacity to serve the midtown area under full build out of the Midtown Specific Plan. The SDMP concluded that implementation of the Midtown Specific Plan would result in a net decrease of stormwater runoff of approximately 13 percent compared to the existing General Plan. As a result, implementation of the Midtown Specific Plan, including the proposed project, would not create or contribute runoff water that would exceed the capacity of the planned stormwater drainage system and no new stormwater drainage facilities

[18] The City of Milpitas purchased additional capacity rights at the wastewater treatment plant in July 2006. The additional capacity totaled one million gallons per day increasing total capacity to 13.5 mgd.
[19] City of Milpitas Public Works Department, Personal Communication, April, 2007

would be required. The proposed project would have a less than significant impact on storm drainage facilities in Milpitas.

4.16.2.4 Solid Waste Impacts

The project would result in an incremental increase in residential waste. The proposed project would produce approximately 504 pounds of solid waste per day[20]. The existing landfill has capacity to handle this additional amount of waste produced from the proposed project. The City of Milpitas is currently operating a residential recycling program for single-family houses and apartments that complies with state-mandated waste reduction goals specified in the Public Resources Code Section 40500. This project will participate in the City's solid waste program and in the City's residential recycling program which will reduce the total amount of garbage taken to the landfill. Coordination with the solid waste hauler is necessary to insure that sufficient space is allocated for the necessary facilities. With implementation of the City's residential recycling program and solid waste program, the proposed project will have a less than significant impact on solid waste facilities serving the City of Milpitas.

4.16.3 Conclusion

The proposed project would not require new utility lines and with the proposed mitigation measures above incorporated, would not exceed the capacity of existing utility systems. For this reason, the proposed project would not result in significant impacts to utilities or service systems. **(Less Than Significant Impact with Mitigation Measures Incorporated)**

[20] Based on average waste production of 4 pounds per unit per day.

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

The proposed development would contribute incrementally to traffic, air quality, and noise impacts associated with development in an urban area. Mitigation measures have been included in the project to reduce identified project impacts on the natural and human environment to a less than significant level.

Please see Page 82 for the checklist sources.

4.18 AUTHORS AND CONSULTANTS

Author:

City of Milpitas Planning Division
Felix Reliford – Acting Director of Planning and Neighborhood Services
Bridgette Carroll – Project Manager

Consultants:

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
San José, CA
Michelle Yesney, Principal
Shannon George, Project Manager
Karli Grigsby, Assistant Project Manager
Stephanie Grotton, Graphic Artist

Hexagon Transportation Consultants
Traffic Consultants
San José, CA

Charles Salter Associates
Acoustical Consultants
San Francisco, CA

Dean Carrier
Wildlife Biologist
Paradise, CA

4.19 CHECKLIST SOURCES

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.

2. City of Milpitas. Milpitas 2020 General Plan, 2002.

3. City of Milpitas. Midtown Specific Plan EIR. October 8, 2001.

4. California Department of Conservation. Santa Clara County Important Farmland 2002. Map.

5. Bay Area Air Quality Management District, Bay '00 Clean Air Plan and Triennial Assessment, Volume I, adopted December 20, 2000.

6. Hexagon Transportation Consultants. South Main Street Residential Development Draft Transportation Impact Analysis. August, 2006.

7. Carrier, Dean. Burrowing Owl Survey and Habitat Report. April 19, 2006

8. City of Milpitas. Tree Ordinance.

9. Lowney Associates. Feasibility-Level Geotechnical Investigation for Main and South Abel Street Residential Development. June 13, 2005.

10. Matteson Companies. South Main Street, Milpitas: Development Statement. April 15, 2006

11. FEMA Flood Insurance Rate Map Community-Panel Number 060349 0036 D. August 2, 1982.

12. Association of Bay Area Governments. ABAG Geographic Information Systems, Hazard Maps, Tsunami Evacuation Planning Map for San Francisco & San Mateo Counties. ABAG. California Office of Emergency Services. 2005.

13. Charles Salter Associates, Inc. Noise Assessment. February, 2006.

14. Lowney Associates. Phase I Environmental Site Assessment for Main Street/Abel Street Property. June 2, 2005.

15. BKF. South Main Street Stormwater Control Report. March 2006.

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