



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: April 11, 2012

APPLICATION: SITE DEVELOPMENT PERMIT NO. SD11-0008

APPLICATION
SUMMARY:

A request to allow three 12 story residential towers with 437 dwelling units with affordable housing zoned Urban Residential with Site and Architectural Overlay (R5-S). Applicant: 750 E. Capitol LP. Staff Contact: Sheldon S. Ah Sing, (408) 586-3278. PJ: 2743.

LOCATION: 750 E. Capitol Avenue (APN: 86-37-027)

APPLICANT: 750 E. Capitol LP

OWNER: Roadway Express, P.O. Box 471, Tax Dept., Akron, OH 44309

**RECOMMENDATION: Staff recommends that the Planning Commission:
Adopt Resolution No. 12-003 approving the project subject to
the conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation: Urban Residential (UR)/Urban Residential (R5)

Overlays: Site and Architectural (-S) and Transit Oriented Development (-TOD)

Specific Plan: Transit Area Specific Plan

CEQA Determination: Exempt pursuant to Sections 15168(c)(2) of the CEQA Guidelines

PLANNER: Sheldon S. Ah Sing, Senior Planner

PJ #: 2743

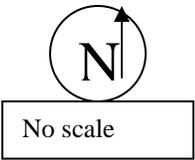
ATTACHMENTS:

- A. Resolution No. 12-003
- B. Project Proponent Plans
- C. Exhibit A
- D. Applicant Narrative
- E. Toxic Air Contaminants (TAC) study
- F. VTA comment letter

LOCATION MAP



	MXD3-TOD
	R5-TOD
	R4-TOD
	R3-TOD



BACKGROUND

On June 3, 2008, the City Council adopted the Transit Area Specific Plan. The Plan encompasses 437 acres and promotes the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office space and industrial. The plan includes development standards, goals and policies guiding development within the plan area. Because of the physical characteristics of the area, including major streets, railroads and creeks, the plan also established sub-districts with specific goals and policies to accommodate those unique characteristics.

On July 15, 2011, an application was submitted by 750 E. Capitol LP) to allow three 12 story residential towers with 437 rental dwelling units and a 12 story parking garage with 20% affordable housing. The application is submitted pursuant to Section 57.03, Site Development Permits and Minor Site Development Permits, of the City's Zoning Code.

The project was on the agenda of a special Planning Commission meeting on January 18, 2012. At the request of the applicant, the Planning Commission tabled the item to be discussed at a later date. The project was duly noticed for the March 14, 2012 Planning Commission meeting and the item was continued to the April 11, 2012 Planning Commission meeting.

PROJECT DESCRIPTION

The project is located on 5.1 acres along Capitol Avenue. The subject property is located within the Transit Area Specific Plan and is zoned Urban Residential with Transit Oriented Development and Site and Architectural Overlays. The proposed project is within the Trade Zone-Montague Sub-District of the Transit Area Specific Plan. The sub-district is located near the future BART station and the existing VTA Light Rail Station. Adjacent properties are zoned similarly. A vicinity map of the subject site location is included on the previous page.

As proposed by the project proponent, the project includes three, 12-story residential towers that include 437 rental dwelling units (85 dwelling units per acre), a 12-story parking structure with 720 vehicular parking spaces, and 49 surface parking spaces adjacent to the garage. The project also includes 12,500 square feet of non-residential space (retail, office, leasing, and club amenity space). As proposed, the project also includes Penetencia Creek East Channel trail improvements.

The project proponent has expressed interest in applying for Tax Credit Allocations. The proponent will apply to the California Tax Credit Allocations Committee, which administers two low-income housing tax credit programs – a federal program and a state program. Both programs were authorized to encourage private investment in affordable rental housing for households meeting certain income requirements. To meet the Committee meeting of May 16, 2012, the application for the tax credits needs to be submitted by March 16, 2012. The application requires verification of zoning and local approvals.

While the project was submitted in July 2011, the project has been deemed incomplete twice (August 12, 2011 and October 27, 2011). The most recent submittal (prior to the January 18, 2012 Planning Commission meeting) was made on December 27, 2011. Typically, pursuant to the California's Permit Streamlining Act, projects that are submitted are reviewed by city staff

for completeness prior to getting on an agenda for review by the Planning Commission. During this period, the project is evaluated against various regulatory documents, such as the General Plan, Transit Area Specific Plan, Zoning and other technical guidelines such as those within the City’s Engineering Department and also various fire and safety codes. If the project does not have the adequate information or is found inconsistent with any of these documents, then the project is deemed incomplete. Additionally, staff may recommend conditions of approval to ensure consistency with the regulatory documents to move the project along in the process.

Given the deadline for the tax credit allocations, the incomplete status of the project and the city’s desire to further the vision of the Transit Area Specific Plan, this report summarizes the development proposal and also includes significant conditions of approval that would bring the project into conformity with the Transit Area Specific Plan requirements and design guidelines. In summary, the conditions of approval ensure that the most fundamental policies, codes and requirements are met by the project.

Development Standards

Table 1
Development Standards

	Zoning Ordinance/TASP	Proposed
<u>Density</u> (Maximum)	75 units/acre (383 units)	85 units/acre (437 units)
<u>Setbacks</u> (Minimum)		
Capitol Avenue	See TASP Fig. 5-11	60’
BART	30’	30’
East Penetencia Creek	Approximately 100-110’	47’
West	20’	40’
<u>Building Height</u> (Maximum)	12 stories	12 stories
<u>Parking</u> (Minimum)	754	769
<u>Landscaping</u> (Minimum)	See TASP Fig. 5-11	25’

Applicant’s proposal

The applicant proposes (Attachment B) three 12 story towers and a 12 story parking structure on the subject site. Each building is independent of each other, in that a resident that has a parking space on the fifth floor of the garage will need to get to the bottom floor of the garage and then enter the lobby of the residential tower to get to their unit.

The project preserves existing curb cuts along Capitol Avenue and proposes a new primary entry once the Milpitas Boulevard extension is completed. The project also proposes a reduced setback along the Penetencia Creek East Channel and counts the roadway as a portion of the public park.

The architecture indicates some variation with balconies. The base of the buildings includes a stone veneer, while the tops of the buildings are unadorned. The garage structure does not have much in terms of providing aesthetic relief.

Staff's recommendations

Site layout

The Transit Area Specific Plan requires the construction of attractive residential developments in the Trade Zone/Montague Sub-district area. In particular, the Specific Plan requires mid-rise and high-rise mixed used buildings along Capitol Avenue to buffer lower density residential uses from traffic and BART noise and to also maximize transit rider use of the BART station and the VTA light rail station. (See generally Transit Area Specific Plan policy 4.4.) To promote these goals, the Transit Area Specific Plan sets forth requirements for residential improvement design and setbacks in order to promote vibrant sub-district neighborhoods that are pedestrian and transit oriented. These include provisions for the extension of Milpitas Boulevard and pedestrian-oriented and transit-oriented site layouts and improvements.

The most substantial inconsistency of the application as submitted is with the setback along the Penetencia Creek East Channel. The Transit Area Plan (Figure 1) below indicates a trail, park and roadway along the creek for a portion of the project site. The project as submitted does not comply with the specific plan. Therefore staff has developed an Exhibit A (Attachment C), which forms the basis of site planning for the project. The setback allows for the development of roadway (Figure 5-9 in the TASP for local roads) with ancillary improvements, such as landscaping, sidewalks and on-street parking (54 feet) for public access to a public park. The public park spans multiple properties along the Penetencia Creek East Channel. This park is to be at least 2.51 acres in size. The portion of the park within the project's property appears to be narrower than the balance of the park. The applicant shall be conditioned to develop a precise dimension of the park taking into account the entire park to ensure accuracy.

Conforming to Exhibit A, moves the project closer to a "wrap" style project, which then enables residents and/or guests to go from a parking space to unit without having to go to the first level of the garage and then into each of the buildings' lobbies.

Pursuant to Transit Area Specific Plan policy 4.45, curb cuts for driveways or garage access along Capitol Avenue are not permitted to the extent feasible in order to promote pedestrian access and circulation throughout the Trade Zone/Montague Sub-district. The Specific Plan identifies the Milpitas Extension as the location for the primary access for the project. The extension is located entirely on adjacent property. The project is conditioned to make good faith efforts in acquiring, designing and constructing the roadway. If the applicant cannot fulfill that condition, then the application would be required to pay a fair share contribution towards the costs of acquisition, design and construction of the roadway.

In the interim, the project would have two access points off of Capitol Avenue. In the ultimate condition, which includes the construction of the Milpitas Boulevard extension, one of the access points (closest to the future extension) would be eliminated and a new primary access point would be developed in accordance with the Specific Plan.

Figure 1:
Transit Area Plan for subject site



Architecture

Staff's position is that the architecture could be improved with respect to having a more prominent base and entry as well as a more definable top to each of the buildings. Staff recommends as a condition of approval that the applicant work with staff further on the architecture of the buildings.

Density

Based on the zoning for the property and size of the lot (75 dwellings/acre x 5.1 acre), a maximum of 382.5 (383) dwellings are permitted. The project proposes 437 dwelling units. In order to achieve the proposed density, the applicant would need to apply for a Density Bonus Permit pursuant to Section 54.15 of the City's Zoning Code. As such, the applicant's request does not include the density bonus and therefore the Planning Commission can only consider 383 dwelling units for approval. The attached resolution and conditions reflect 383 dwelling units for the project. The applicant may at some point in the future file the necessary permit for the additional density as an amendment to this project.

Other pertinent discussion

The Engineering, Building and Fire Departments have reviewed the project and have provided conditions of approval to ensure consistency with their requirements included in Attachment A.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

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

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>2.a-G-2 Maintain a relatively compact urban form.</i>	Consistent. The project includes high density residential and mixed use towers.
<i>2.a I-25 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.</i>	Consistent. The project as conditioned will be consistent with the requirements of the specific plan.

Noise Element

The City’s Noise Element of the General Plan provides an understanding of existing and future noise conditions, establishes a basis for evaluating potential noise level impacts on future development, and includes policy statements to guide public and private planning to attain and maintain acceptable levels. While the project submitted an adequate acoustical and vibration study, since the project’s site layout will change, staff recommends as a condition of approval that the project proponent submit an updated acoustical and vibration study.

Zoning Ordinance

Findings are required by the Planning Commission to approve the project. As conditioned, the layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.

Transit Area Specific Plan

The specific plan was adopted in 2008 and includes a vision to create attractive high density urban neighborhoods with a mix of land uses around the light rail stations and future BART station. The specific plan will create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.

The project will have to comply with the policies, guidelines and requirements outlined in the Transit Area Specific Plan. As conditioned, the project will be consistent with the specific plan.

Toxic Air Contaminants (Policy 5.25)

Pursuant to Policy 5.25, since the project is within 500 feet of an active railroad line, the project requires a Toxic Air Contaminants (TAC) study. Attachment E is the applicant’s TAC submittal. Staff’s position is that the TAC is incomplete. No supporting documents verify the outcomes of the study. The study would need to show results emission results, such as those from California Emissions Estimator Model (CalEEMod) or BGM Greenhouse Gas Calculator. Therefore, as a

condition of approval, the project proponent shall submit a revised TAC to the satisfaction of the Planning Division.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is exempt from further environmental review pursuant to Section 15168(c)(2) of the CEQA Guidelines because of its consistency with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008 by the City Council.

PUBLIC COMMENT/OUTREACH

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

CONCLUSION

While the project's most recent submittal was on December 27, 2011, at its most basic, it is a high density, high rise project near transit, which is consistent with the goals and some policies of the specific plan; however, the project falls short of meeting the requirements and the site planning prescribed within the Transit Area Specific Plan.

Staff created Exhibit A to illustrate a desired building envelope that is consistent with the Specific Plan and forms the basis for the applicant to revise a site plan coupled with the submittal of other various studies and plans for evaluation prior to issuance of a building permit by the City.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. 12-003 approving Site Development Permit No. SD11-0008, Capitol Towers, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 12-003
- B. Project Plans
- C. Exhibit A
- D. Applicant narrative
- E. Toxic Air Contaminants Study (TAC)
- F. VTA comment letter February 7, 2012
- G. VTA comment letter March 8, 2012

RESOLUTION NO. 12-003**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. SD11-0008, CAPITOL TOWERS, TO ALLOW THREE 12 STORY RESIDENTIAL TOWERS WITH 383 DWELLING UNITS AND A 12 STORY PARKING GARAGE WITH AFFORDABLE HOUSING LOCATED AT 750 EAST CAPITOL AVENUE**

WHEREAS, on July 15, 2011, an application was submitted by 750 E. Capitol LP, 1245 S. Winchester Blvd., Suite 200, San Jose, CA 95128, to allow three 12 story residential towers with 383 dwelling units and a 12 story parking garage with affordable housing the property is located within the Urban Residential Zoning district with Transit Oriented Development and Site and Architectural Overlays (APN: 86-37-027); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt and not otherwise subject to review by CEQA.

WHEREAS, on January 18, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and the item was tabled.

WHEREAS, on March 14, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and continued the item to April 11, 2012.

WHEREAS, on April 11, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

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

Section 2: The project is exempt pursuant to Section 15168(c)(2) of the CEQA Guidelines because staff determined that the project as conditioned is consistent with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008 by the City Council.

Section 3: As conditioned and demonstrated on Exhibit A, the layout of the site and design of the proposed buildings, structures and landscaping will be compatible and aesthetically harmonious with adjacent and surrounding development in that the project follows the design guidelines and the street sections identified in the Transit Area Specific Plan.

Resolution No. 12-003

Section 4: As conditioned and demonstrated on Exhibit A, the project is consistent with the Milpitas Zoning Ordinance in that the project will apply for a density bonus.

Section 5: As conditioned and demonstrated on Exhibit A, the project is consistent with the Milpitas General Plan in that the project proposes an urban compact form and will be consistent with the guidelines, policies and requirements of the Transit Area Specific Plan.

Section 6: As conditioned and demonstrated on Exhibit A, the project is consistent with the Transit Area Specific Plan's guidelines, policies and requirements.

Section 7: The Planning Commission of the City of Milpitas hereby approves Site Development Permit No. SD11-0008, Capitol Towers, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a special meeting of the Planning Commission of the City of Milpitas on April 11, 2012.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 11, 2012, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

EXHIBIT 1

**CONDITIONS OF APPROVAL
SITE DEVELOPMENT PERMIT NO. SD11-0008**

A request to allow three 12 story residential towers with 383 dwelling units with affordable housing
750 E. Capitol Avenue (APN: 086-37-027)

General Conditions

1. Approvals. The owner or designee shall develop the approved project in conformance with the Transit Area Specific Plan as exemplified in **Exhibit A** approved by the Planning Commission on April 11, 2012, in accordance with these Conditions of Approval. **Exhibit A** demonstrates the minimum setbacks, access points, circulation requirements, and street sections for the project.

Any deviation from the approvals stated herein, shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

2. Expirations. Site Development Permit No. SD11-0008 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
3. Time Extension. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Site Development Permit No. SD11-0008 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
4. Site Plan and Supporting Materials. The owner or designee shall not submit an application for a building permit until the site plan and supporting materials has been agreed to for the following:

- a. Open Space. Prior to submittal of a building permit application, the owner or designee shall demonstrate compliance with the City's private open space requirements. **(P)**
- b. Open Space. Prior to submittal of a building permit application, the owner or designee shall demonstrate compliance with Figure 3-6 of the Transit Area Specific Plan (Public Parks, Spaces, and Trails). This shall include the development and submittal of precise dimensions of the park taking into account the entire park to ensure accuracy to the satisfaction of the Planning Director or designee. **(P)**
- c. Architecture. Prior to submittal of a building permit application, the owner or designee shall submit revised architectural elevations of the towers providing additional detail and prominence to the base and entry and creating more definable tops of the buildings to be reviewed to the satisfaction of the Planning Director or designee. In addition, the owner or designee shall submit revised architectural elevations of the parking garage demonstrating appropriate measures to integrate the garage into the overall development (through vegetation or other means) to be reviewed to the satisfaction of the Planning Director or designee. **(P)**
- d. Acoustical/Vibration Study. Prior to submittal of a building permit application, the owner or designee shall submit a revised acoustical and vibration report for the review and approval by the Planning Director or designee. **(P)**
- e. Toxic Air Contaminants Study. Prior to submittal of a building permit application, the owner or designee shall submit a revised Toxic Air Contaminant Study that verifies its conclusions using either CalEEMod or BMG reports for the review and approval by the Planning Director or designee. **(P)**
- f. Outside Agency Approvals. Prior to submittal of a building permit application, the owner or designee shall demonstrate to the satisfaction of the Planning Director or designee that the Santa Clara Valley Transportation Authority (VTA) comments in a letter dated March 8, 2012 to the City (attachment to staff report) has been addressed. **(P)**
- g. Transit Area Specific Plan. The project shall demonstrate compliance with the applicable policies, requirements and guidelines of the Transit Area Specific Plan, including street cross-sections. **(P)**
 - i. Ground Floor Retail Required (Figure 3-1, Transit Area Plan). Prior to submittal of a building permit application, the owner or designee shall demonstrate compliance with the Specific Plan in that a minimum of 5,000 square feet of ground floor retail is required for the site. **(P)**

5. Conditions of approval. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
6. Indemnification. To the fullest extent permitted by law, applicant shall indemnify, defend with counsel of the City's reasonable choosing that is mutually acceptable to both parties, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the project applicant of any claim, action, or proceeding and engage in reasonable efforts to cooperate with applicant in the defense against the claim, demand, obligation, damage, action, or suit. If City fails to so promptly notify the project applicant, then the applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The applicant shall not be required to pay or perform any settlement unless the settlement is approved by the applicant. **(CA)**
7. Private Job Account - If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, the review of permits will not be initiated until the balance is paid in full. **(P)**
8. Transit Area Development Impact Fee. At the time of building permit issuance, the owner or designee shall pay the Transit Area Development Impact Fee by building.
 - A. Residential impact fee of approximately \$9,299,240 based on 383 units at \$24,280 per unit; and Commercial impact fee of approximately \$213,000 based on 12,500 square feet at 17.04 per square foot. Total estimated TADIF is estimated at **\$9,512,240. (P) (E)**
9. Diversity of Housing. The owner acknowledges that considerable assistance was provided to it in the form of expedited review and assistance in the processing of an incomplete land use application in order to encourage private investment in the development of affordable housing. In consideration of such assistance and the insurance

Resolution No. 12-003

of the maintenance of housing diversity, the owner or operator voluntarily agrees to create and ensure the maintenance of up to a maximum of 20 percent of residential units at a level affordable to households earning no more than 50 percent of the Area Median Income (very low income) and at least 80 percent of residential units for the benefit of market rate households (P)

Landscaping

10. Landscape plan. Prior to issuance of a building permit, a detailed landscape plan shall be submitted by the owner or designee and approved by the Planning Director or designee that includes the following the following:
 - a. Locations and screening of all transformers and utility devices including backflow preventers.
 - b. Location and type of trees, shrubs and ground cover, including sizes and quantities. The legend shall also show tree canopy diameter at planting, five years and 10 years.
 - c. Plan details for all fence and wall structures. These shall be compatible in style and material with the proposed buildings.
 - d. Details of all exterior project lighting with details of fixture types and design. The Photometric shall also be included. Illumination of the site shall not exceed IESNA standards for the type of use proposed. (P)
11. Prior to issuance of an occupancy permit, the required landscaping shall be planted and in place pursuant to the phasing plan for the project. (P)
12. All planter areas shall be serviced by a sprinkler head or drip system. (P)
13. All approved landscaping shall be permanently maintained and replaced in kind as necessary to provide a permanent, attractive and effective appearance. (P)

Lighting

14. Prior issuance of a building permit, the owner or designee shall provide a photometric study showing the foot candles throughout the site for review and approval by the Planning Director or designee. (P)
15. Prior to issuance of a building permit, the owner or designee shall submit a detailed plan showing exterior light fixtures, light standards (bollards, parking lot, etc.) for review and approval by the Planning Director or designee. (P)

Engineering Conditions

16. Exhibit S. The owner or designee agrees and shall implement Exhibit ‘A’ by creating and submitting revised site, civil and architectural plans (Exhibit S) to the satisfaction of the City Engineer, Fire Marshal and Planning Director or designees prior to submittal for any building permits for this project.

Exhibit S shall be consistent with Transit Area Specific Plan vision, circulation element, site access, open space, utilities, local streets, Capitol Avenue frontage, Milpitas Boulevard Extension, and East Penitencia Trail System. The site plan shall comply with all federal, state, and local regulations, including but not limited to floodplain management, water master plan, sewer master plan, storm drain master plan, urban runoff, and utility design and construction standards. Exhibit S shall incorporate the following changes and shall comply with the following conditions:

- a. Vehicular access points. The project shall develop the access points based on Exhibit A and the following standards:
 - i. The ultimate vehicle access from Capitol Avenue shall be a minimum of 300 feet away from future Milpitas Blvd Extension intersection. Only right-in/right-out vehicle access is permitted off Capitol Avenue and on-site vehicle circulation shall not impede inbound vehicle traffic from Capitol Avenue at anytime.
 - ii. Ultimate vehicle access from Milpitas Blvd Extension shall be at the new private street along Penitencia Creek.
 - iii. An interim access point from Capitol Avenue shall be allowed until the Milpitas Extension is constructed.
 - iv. Owner or designee shall submit for approval traffic operational analysis justifying adequacy of proposed vehicle, pedestrian, and bicycle access locations and designs. Owner or designee shall design and construct traffic mitigations as identified in the traffic operational analysis to the satisfaction of the City Engineer.
- b. Owner or designee shall modify proposed street sections and site plan as deemed necessary to accommodate for any modifications needed to satisfy requirements for implementing any design changes recommended in the flood study requirements, storm water control plan, geotechnical engineer requirements, fire access, utility design, solid waste handling plan, or as deemed necessary by the City Engineer to meet all City Standards.
- c. All streets and utilities within the development shall be privately owned and maintained.

- d. The project shall be served by master water meters, with separate services for commercial domestic, fire, and **interim potable** irrigation. Each residential building shall have a separate domestic service.
 - e. Owner or designee shall submit a grading plan establishing pad elevations in accordance with the flood plain code requirements.
 - f. Owner or designee shall submit a hydrologic/hydraulic study evaluating site and flood plain impacts and shall be prepared by a registered Civil Engineer. The study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the owner or designee shall satisfy the conclusions and recommendations of the approved study and mitigations identified in the report. The submitted study, shall demonstrate to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments (e.g., Integral, DR Horton @ McCandless, Trumark project on Tradezone/Montague, Montague/Piper TASP sub-district, Shea Homes at S. Main and Abel, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one/tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS.
 - g. Submitted Stormwater Control Plan shall be revised accordingly to be consistent with site plan changes and new streets. Storm water management shall be in compliance with Municipal Regional Permit (MRP) dated October 14, 2009 and as set forth in the conditions of approval for this project. This plan shall be submitted for review and preliminary approval prior to building permit submittal for the project. **(E)**
17. Owner or designee agrees as a condition of project approval, and prior to any building permit issuance unless otherwise noted, shall obtain design approval and bond for all necessary public improvements along E. Capitol Avenue from the Montague Expressway to the future BART right of way and future West Leg of Milpitas Boulevard Extension (WLME), including but not limited to the following and subject to the satisfaction of the City Engineer, Fire Marshal and Planning Director or designees:
- a. Project Main Access: Owner or designee agrees to an interim access from Capitol Avenue, and agrees to pay all associated costs to relocate the project main access to the WLME. Payment shall be paid to the City of Milpitas prior to building permit issuance. City agrees to eliminate these conditions if owner or designee is successful in construction the WLME.

b. West Leg Milpitas Boulevard Extension:

- i. Owner or designee agrees to make a good faith effort to acquire the right-of-way for the WLME from the adjacent property. Owner or designee shall design, construct and dedicate to the City the WLME as set forth in this condition of approval before the issuance of a certificate of occupancy for the project, or as permitted by the City Engineer.

The WLME (public street) shall be established with project limits from Capitol Avenue to a new private street along Penitencia Creek, per the TASP street section requirements to the satisfaction of the City Engineer and in coordination with the proposed Milpitas Boulevard Extension that extends from Montague Expressway to Capitol Avenue adjacent to the new proposed Milpitas BART Station.

The WLME street section shall include but not be limited to one 11-foot southbound lane, one 11-foot northbound lane, 11-foot northbound right, Class II bike lanes on both directions of travel, minimum 4 foot raised median island, 8-foot parking lane on one side of the street, 7 foot planting strip, and 5 foot sidewalk. The WLME street elevation shall be designed and constructed to accommodate future bridge crossing over Penitencia Creek pursuant to the TASP-designated street network. Owner or designee shall construct both surface improvements and underground improvements for the proposed Milpitas Boulevard extension to Penitencia Creek right of way, including but not limited to pavement, curb, gutter, sidewalk, pavements, street trees/landscaping, street lights, water, sewer, recycled water main extension and storm drains pipes, to the satisfaction of the City Engineer.

- ii. Alternatively, in lieu of performance of the condition above (b.i.), Owner or designee shall pay to the City of Milpitas 50% fair share contribution for all associated costs for the WLME if owner or designee is not able to secure and construct the WLME. City and owner or designee agrees to establish the 50% fair share amount prior to issuance of building permits. The WLME (public street) cost shall be established with project limits from Capitol Avenue to new private street along Penitencia Creek per the TASP street section requirements to the satisfaction of the city engineer and in coordination with the proposed Milpitas Boulevard Extension that extends from Montague Expressway to Capitol Avenue adjacent to the new proposed Milpitas BART Station. The WLME street section shall include but not be limited to one 11-foot southbound lane, one 11-foot northbound lane, 11-foot northbound right, Class II bike lanes on both directions of travel, minimum 4 foot raised median island, 8-foot parking lane on one side of the street, 7 foot planting strip, and 5 foot sidewalk. The WLME street elevation shall be designed and constructed to

accommodate future bridge crossing penitencia creek per tarp street network. The cost shall also include all associated costs with public right-of-way acquisition, easements to accommodate all surface improvements and underground utilities. Additionally, cost share shall include both surface improvements and underground improvements for the proposed Milpitas Boulevard extension to Penitencia Creek right of way, including but not limited to pavement, curb, gutter, sidewalk, pavements, street trees/landscaping, street lights, water, sewer, recycled water main extension and storm drains pipes. Developer or designee agree to prepare necessary schematic plans, and engineer's estimate to the satisfaction of the City Engineer to establish the 50% cost share.

- iii. Regardless of whether Owner or designee performs obligations pursuant to conditions above (b.i.) or (b.ii), Owner or designee shall also pay a fair share contribution for the construction of a new signal at the E. Capitol Avenue and future Milpitas Boulevard extension intersection prior to building permit issuance.
- c. Removal and installation of new curb, gutter, and sidewalk, median modification or installation, signage and striping, street lights, fire hydrants, bus stop, street resurfacing, and storm, water and sewer service installation. Owner or designee shall design and construct site frontage improvements on Capitol Avenue per TASP requirements and dedicate public right-of-way and easements for public improvements.
- d. The existing sanitary sewer collection system is at full capacity. Owner or designee and City agree to work cooperatively in developing an agreement for the design and construction obligation for the projects defined as Projects 11A, 11B, and 11C as identified in the 2009 Sewer Master Plan. Construction of these projects shall be completed prior to issuance of building certificate of occupancy. The costs for these improvements are estimated to cost between \$4-\$5 Million, some of which will be paid as TASP Impact Fees, developer and some by City's sewer fund. These projects are more specifically defined as follows:
 - i. Sewer project known as 11A, as specified in the City of Milpitas Sewer Master Plan includes replacement in its entirety.
 - ii. Sewer project known as 11B, as specified in the City of Milpitas Sewer Master Plan includes replacement in its entirety.
 - iii. Sewer project known as 11C, as specified in the City of Milpitas Sewer Master Plan includes replacement in its entirety.
- e. Projects located in the TASP are required to use recycled water for landscape irrigation. The common area landscape and park/trail areas shall be served by separate irrigation services. Even though the owner or designee may construct the

recycled water pipeline in the Milpitas Boulevard westerly extension, recycled water supply may not be available immediately upon project occupancy. An interim potable water supply may be used until the recycled water becomes available. The owner or designee shall enter into an agreement with the City to complete the conversion to recycled water within twelve months of its availability. The owner or designee shall clearly delineate the potable water service area and recycled water service areas on the plans and maintain separation with a permanent physical barrier such as a sidewalk or fence. (E)

18. Flood Zone. Proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to final map approval or any building submittal, the owner or designee shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the project prior to building permit issuance. The owner or designee shall also obtain a Letter of Map Revision (LOMR) prior to building permit occupancy for any unit. Owner or designee shall provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the site plan shall comply with the established BFE as determined in the final flood study report approved by the City. Owner or designee agrees to make a good faith effort to work cooperatively with the City and outside agencies in evaluating options to assist in flood plain mitigation improvements deemed feasible in dealing with cumulative impacts. (E)
19. The owner or designee shall comply with Municipal Regional Permit (MRP) Order R2-2009-0074 for post construction C3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009—0009 NPDES No. CAS000002 or as required by the Regional Board at the time owner or designee submits the NOI for the project for pre construction storm water treatment requirements. (E)
20. Storm Water Control. Prior to any building permit submittal, owner or designee shall submit for preliminary approval a Storm Water Control Plan, and a final Storm Water Control Plan prior to building permit issuance that incorporates best management practices (BMPs) for treatments of stormwater run off from all parcels. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable pavement BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. **Site design shall also include Low Impact Development (LID) Section C3.c.i.(2)(b) measures of harvesting and reuse, infiltration, and evaporate-transpiration, and biotreatment systems.** The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer.

- A. Owner or designee shall submit a final Storm Water Control Plan package for review and approval with the building permit submittal.
- B. The Plan shall be prepared by a licensed Civil Engineer qualified and trained professional with storm water treatment process and certifies that measures specified in the report meet the MRP requirements.
- C. Prior to issuance of Certificate of Occupancy, the owner or designee shall submit a Storm Water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the owner or designee's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
- D. Owner or designee shall include in the approved CC&R or equivalent document, language in regard to providing the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. If the City does not receive the report, City will conduct the field inspection and report, and the owner or designee and its successor shall be responsible to pay all associated costs.
- E. Prior to Final occupancy, the owner or designee shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
- F. Owner or designee shall comply with all "Model Conditions Of Approval For Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
- G. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the owner or designee's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Any changes to the final Storm Water Control Plan may require Site Development Permit review. **(E)**

21. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) General Construction Permit Order No. 2009-0009-DWQ NPDES No. CAS000002. Pursuant to that the NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the owner or designee, and accepted by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)
22. Water Supply and Force Majeure: The City currently has adequate water supply and sewerage treatment plant capacity allocation for this land entitlement approval project. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. Prior to any building permit issuance, Council's approval of the water Supply Assessment is required. However, this condition of approval applies in case of emergency declaration of supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. (E)
23. Prior to any building permit issuance, the owner or designee shall obtain approval from the City Engineer of the water, sewer, and storm drain studies to serve this project. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the owner or designee will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
24. The project shall be served by SCVWD Zone 1 water supply. The project shall be served by master water meters, with separate services for commercial domestic, fire, and interim potable irrigation. Each residential building shall have a separate domestic service. Prior to issuance of any building permits, the owner or designee shall obtain approval from the City Engineer and Fire Marshal of water system studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the City's public water distribution system. These studies shall also demonstrate that the multiple on-site water system improvements (ie commercial domestic, fire, residential domestic, and interim potable irrigation) provide sufficient capacity and pressure to meet minimum domestic and fire demands at the top story of each tower. If the results of the study indicate that minimum water pressure cannot be maintained at the water meters, the owner or designee shall construct necessary off-site public water system improvements to achieve minimum water supply pressures.

Design and construction of all public water system facilities shall be in accordance with State and City standards and guidelines (including but not limited to placement within right-of-way, pipeline material, depth, and spacing; water meter type, and backflow protection). Design and construction of the on-site water systems shall be in accordance with the approved studies, and applicable building, plumbing, and fire codes. The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the owner or designee is encouraged to design and install a redundant water service system.

Regardless of the water system study results, at a minimum, the owner or designee shall:

- i. Dedicate right-of-way/PSUE/Easement for a public pressure regulating station at the corner of Capitol Avenue and the new Milpitas Boulevard westerly extension; and
- ii. Construct a new 12-18 inch diameter (size to be determined) public water system pipeline from Capitol Avenue along the new Milpitas Boulevard westerly extension or as directed by City Engineer.
- iii. Dedicate all public improvements to the City.
- iv. Design and construct all water system improvements necessary to serve this project.

The owner or designee shall submit for City approval detailed utility plan and profiles showing the sizes & locations of all existing and proposed water mains, services, meter(s) and backflow devices. Also, show horizontal and vertical clearances from other utilities; and depth and material of existing main for wet/hot taps or isolation valves for cutting in tee's. All domestic and irrigation services shall include reduced pressure principle backflow prevention device as per City Standard Drawing #734. Fire services shall be protected from backpressure/back-siphonage in accordance USC Manual of Cross-Connection and City requirements. **(E)**

25. Prior to any building permit issuance unless otherwise noted the owner or designee shall comply with the following solid waste requirements and modify plans as a condition of project approval:

- H. Project is required to design for roll-off service for both trash and recyclables. Owner or designee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables in accordance with City guidelines. Owner or designee shall procure sufficient service frequency.

- I. The owner or designee shall estimate the weekly volume of trash and recyclables, determine container sizes, provide sufficient enclosure space, and include utility hook-ups.
- J. Owner or designee shall provide a Solid Waste Handling Plan showing how materials will be transferred from each dwelling unit to the trash enclosure, address property management responsibility for bin management (ie sufficient number, size of bins, storage, positioning), compaction, chute design & maintenance requirements, and litter management. The plan shall demonstrate that the site plan provides sufficient space for the solid waste vehicle to perform collection and turn around on-site excluding public and private streets and make any site plan modifications to address this issue.
- K. The solid waste collection areas shall be designed to parking garage standards and meet all building and fire code requirements. The collection areas shall be designed to accommodate new solid waste truck turn around and height requirements. The collection areas shall include a minimum forty (40) feet straight approach. No vehicle backing onto public/private streets is allowed. The largest roll-off container that can be accommodated in an internal trash area is thirty (30) cubic yards. No collection equipment shall be placed in public view. The enclosure areas shall be designed such that the drains must discharge to the sanitary sewer line. All storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains.
- L. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, owner or designee shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, owner or designee shall subscribe to and pay for solid waste services rendered.
- M. **Prior to any building permit issuance**, owner or designee shall submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. Particularly showing how trash and recyclables will be transferred from each dwelling unit to the trash enclosure area. The Solid Waste Handling Plan shall also address other requirements, such as compaction, chute design & maintenance requirements, sufficient number & size of bins, property management responsibility for bin management, storage & positioning, and litter control. Owner or designee shall add this language to the deed restriction and CC&Rs and HOA or equivalent document shall be responsible to implement this plan.
- N. Prior to occupancy permit issuance, the property management shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Allied Waste Services (formally BFI).

After the owner or designee has full occupancy, the owner or designee shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the owner or designee shall increase the service to the level determined by the evaluation. For general information, contact Allied Waste Services at (408) 432-1234.

- O. If owner or designee or any of the future tenants is a restaurant (frying/cooking foods), a Tallow account must be maintained and the tallow area and equipment kept clean. **(E)**

- 26. Community Facilities District. Prior to any building permit issuance, the owner or designee shall submit an executed petition to annex the subject property into the CFD 2008-1, and agree to pay the special taxes levied by Community Facility District (CFD 2008-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The owner or designee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. **(E)**

- 27. Property Management (PM). Prior to any building permit issuance, the owner or designee shall establish necessary PM with a recordable document. The PM shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The PM shall manage the onsite water, recycled water, storm, and sewer system and implement the Solid Waste handling plan. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) of the recordable document. The CC&R document shall be submitted for review and approval by the City Engineer. In the CC&R document, owner or designee shall record a deed restriction or other recordable document subject to the approval of the City Engineer, at its sole discretion, concurrent with the recordation of any final map that memorializes ownership, repair, replacement and access rights to private utilities within the project site. **(E)**

- 28. Prior to any building occupancy permit issuance, owner or designee shall dedicate necessary public service utility easements, street easements, public access easement and easements for water and sanitary sewer purposes to the satisfaction of the City Engineer. **(E)**

- 29. Development Fees. The owner or designee shall submit the following items with the building permit application and pay the related fees prior to building permit issuance (Note these fees are estimated fees and will be finalized along with the development improvement agreement):
 - B. Storm water connection fee of **\$110,613** (based on 5.13 acre @ \$21,562/acre).

- C. Water connection fee of **\$372,310** (based on 383 units at \$1,164/U and \$14,328/AC credit for previous use). *Water connection fee for the commercial component of the project to be determined as part of the subdivision agreement.*
- D. Sewer connection fee of **\$433,600** (based on 383 units at \$1,406/U, and \$20,448/AC credit for previous use). *Sewer connection fee for the commercial component of the project to be determined as part of the subdivision agreement.*
- E. Water Service Agreement(s) for water meter(s) and detector check(s).
- F. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3328 to obtain the form(s). **(E)**

- 30. Prior to building permit issuance, owner or designee must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee scheduled adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. **(E)**
- 31. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and owner or designee shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The owner or designee shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. *All improvements must be in accordance with the City of Milpitas Transit Area Specific Plan, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit.* **(E)**
- 32. In accordance with Milpitas Municipal Code XI-1-7.02-2, the owner or designee shall underground all existing wires and remove the related poles within the proposed development, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage. **(E)**

33. It is the responsibility of the owner or designee to obtain any necessary approvals and encroachment permits from affected agencies and private parties, including but not limited to, City of San Jose, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara County Road and Airport Services, and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division, prior to building permit issuance or directed by City Engineer. **(E)**
34. Prior to start of any construction, the owner or designee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The owner or designee shall coordinate their construction activities with other construction activities in the vicinity of this project. The owner or designee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. **(E)**
35. All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. **(E)**
36. Prior to demolition permit issuance, the owner or designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these resource recovery activities:
- A. What materials will be salvaged.
 - B. How materials will be processed during demolition.
 - C. Intended locations or businesses for reuse or recycling.
 - D. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.
- Owner or designee shall make every effort to salvage materials for reuse and recycling. **(E)**

37. Prior to building permit issuance, owner or designee shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division. **(E)**
38. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the owner or designee, all to the satisfaction of the City Engineer or designee. The owner or designee shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The owner or designee shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. Only authorized non-exclusive haulers shall perform all recycling and/or disposal by removal from the job site. **(E)**
39. Indicate wells which are to be maintained or abandoned in accordance with Santa Clara Valley Water District. Air gap or reduced backflow protection is also required for all active (non-sealed wells). **(E)**
40. The owner or designee shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. **(E)**
41. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. **(E)**
42. Prior to any work within public right of way or City easement, the owner or designee shall obtain an encroachment permit from City of Milpitas Engineering Division. **(E)**
43. If necessary, the owner or designee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755. **(E)**
44. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the owner or designee shall:

- A. Provide separate water meters for domestic water service & irrigation service. Owner or designee is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
- B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the owner or designee or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

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

45. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240); the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. Recycled water irrigation shall be provided for all common areas within the in-tract parcel, and all other areas maintained by the HOA for the project. To meet the recycle water guideline the owner or designee shall:

- A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
- B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the California Department of Public Health (CDPH) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and CDPH approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
- C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas. **(E)**

54. The owner or designee shall:

- i. Design and construct off-site 8 inch diameter recycled water pipeline extension from Capitol Avenue along the new Milpitas Boulevard westerly extension. Pipeline design and construction shall be in accordance with State, City, and South Bay Water Recycling requirements or as directed by City Engineer.
- ii. Dedicate all public improvements to the City.
- iii. Design and construct all necessary recycled water system improvements necessary to serve this project.

- a. The owner or designee shall submit for City approval detailed utility plan and profiles showing sizes & locations of recycled water mains, services, meters and any backflow devices on the plans. Recycled Irrigation meters typically do not require backflow preventer device unless chemical injection is used. Interim connection to potable system requires backflow device.
- b. Recycled water use for this site is limited to: compaction during grading, dust control, common area irrigation, and park/trail irrigation; and is mandatory for common area and park/trail irrigation. Recycled water use within building footprints is not allowed. Prior to any use of recycled water, the owner or designee shall apply for and receive a recycled water use permit.
- c. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the owner or designee may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms.
- d. The owner or designee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities.’
- e. The owner or designee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.
- f. The owner or designee shall obtain a construction water meter for construction water purposes such as grading, dust control, mixing of concrete, stucco, paint, cleaning, pressure testing, etc. and pay all charges.
- g. The common area landscape and park/trail areas shall be served by separate irrigation\services. Even though the owner or designee is constructing the recycled water pipeline in the Milpitas Boulevard westerly extension, recycled water supply may not be available immediately upon project occupancy. An interim potable water supply may be used until the recycled water becomes available. The owner or designee shall enter into agreement to complete the conversion of the recycled water con version..
- h. The owner or designee shall submit for City approval utility plan and profiles showing sizes and locations of existing and proposed mains, laterals, clean outs, and any necessary sewer backflow devices on the plans. Industrial and commercial developments require a minimum 6" sewer lateral and cleanout as per City Standard Drawing #620, sheet 2. Residential developments require a minimum 4' sewer lateral and cleanout as per City Standard Drawing #620, sheet 1. Plans shall show the lowest finish floor elevation of the structure and the rim elevation of nearest upstream sanitary manhole on the plans. If the lowest floor elevation is less than one foot above the rim elevation of the nearest upstream manhole, then a backflow preventer per City Standard Drawing # 624 is required.

Resolution No. 12-003

- i. Parking garage drainage shall pass through an oil/grease separator and shall be diverted to the sanitary sewer system or landscape.
- j. Grease interceptors may be required for commercial food preparation/service uses and shall be located outside City right-of-way and easement.
- k. In accordance with Milpitas Municipal Code VIII-6-3, the owner or designee is required to incorporate a re-circulated water system in the design of the proposed decorative fountain.
(E)

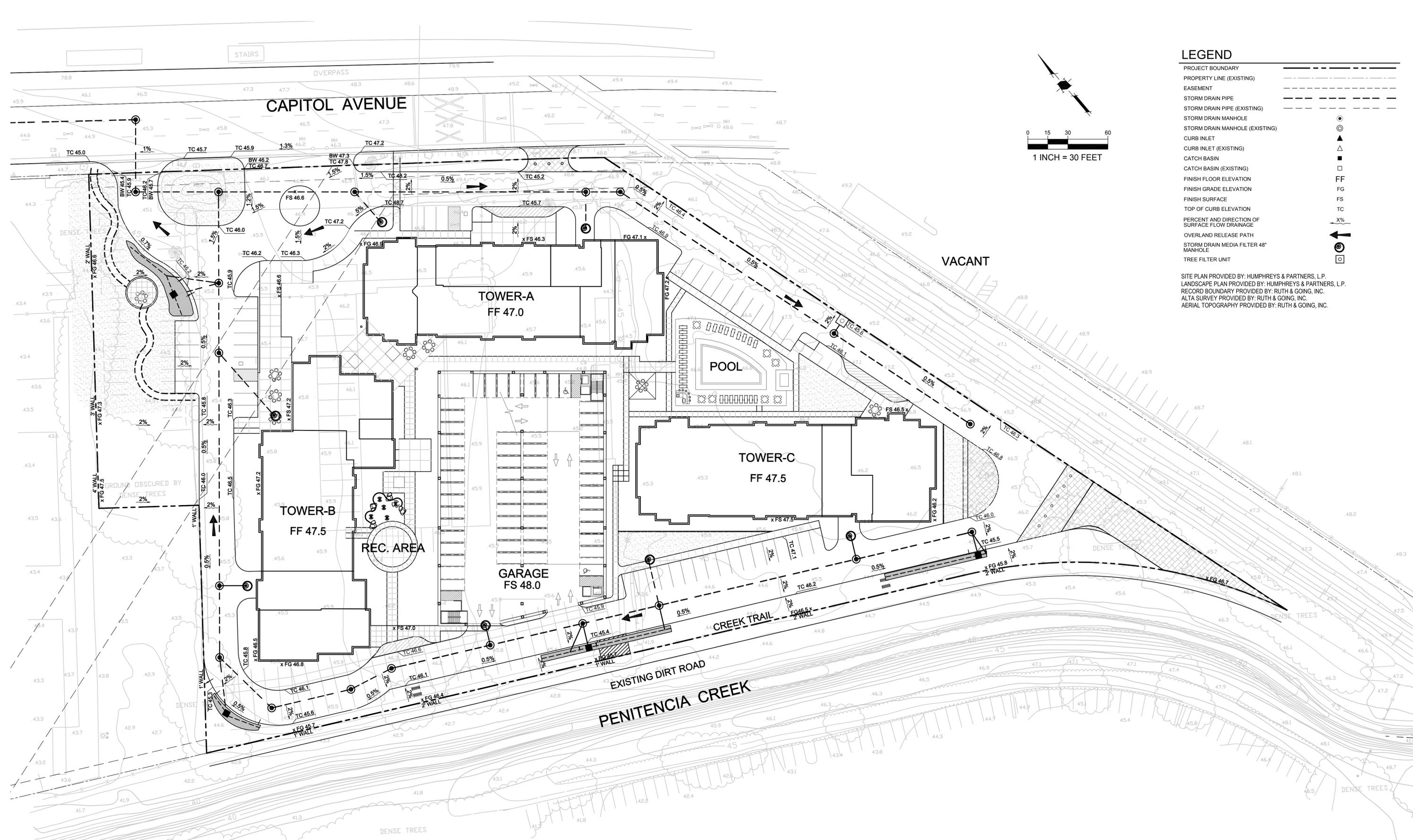
(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney



LEGEND

- PROJECT BOUNDARY
- PROPERTY LINE (EXISTING)
- EASEMENT
- STORM DRAIN PIPE
- STORM DRAIN PIPE (EXISTING)
- STORM DRAIN MANHOLE
- STORM DRAIN MANHOLE (EXISTING)
- CURB INLET
- CURB INLET (EXISTING)
- CATCH BASIN
- CATCH BASIN (EXISTING)
- FINISH FLOOR ELEVATION
- FINISH GRADE ELEVATION
- FINISH SURFACE
- TOP OF CURB ELEVATION
- PERCENT AND DIRECTION OF SURFACE FLOW DRAINAGE
- OVERLAND RELEASE PATH
- STORM DRAIN MEDIA FILTER 48" MANHOLE
- TREE FILTER UNIT

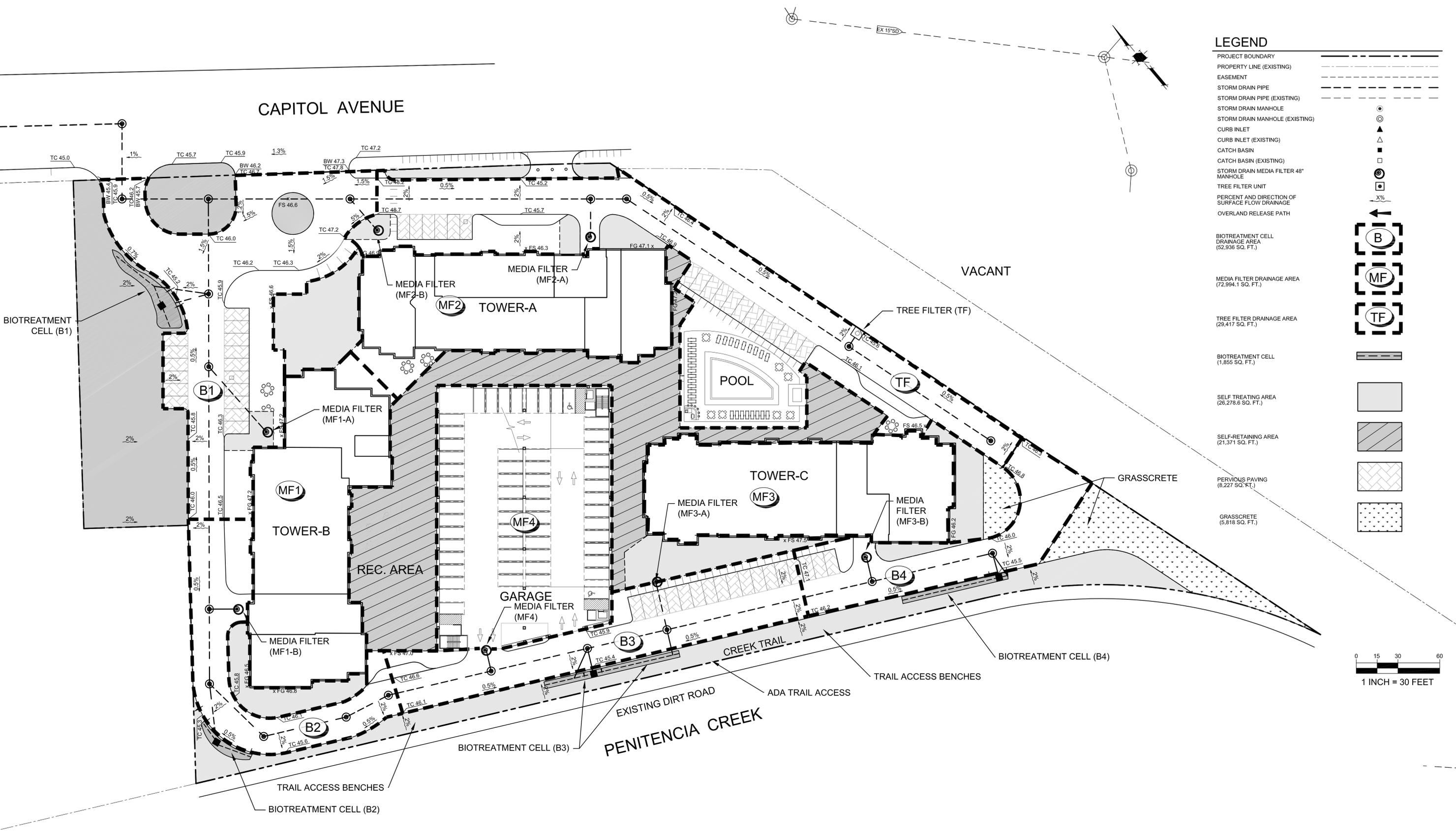
(Symbol: Dashed line) PROJECT BOUNDARY
 (Symbol: Dotted line) PROPERTY LINE (EXISTING)
 (Symbol: Long dashed line) EASEMENT
 (Symbol: Solid line) STORM DRAIN PIPE
 (Symbol: Dashed line) STORM DRAIN PIPE (EXISTING)
 (Symbol: Circle with dot) STORM DRAIN MANHOLE
 (Symbol: Circle with dot) STORM DRAIN MANHOLE (EXISTING)
 (Symbol: Triangle) CURB INLET
 (Symbol: Triangle) CURB INLET (EXISTING)
 (Symbol: Square) CATCH BASIN
 (Symbol: Square) CATCH BASIN (EXISTING)
 (Symbol: Square with 'F') FINISH FLOOR ELEVATION
 (Symbol: Square with 'FG') FINISH GRADE ELEVATION
 (Symbol: Square with 'FS') FINISH SURFACE
 (Symbol: Square with 'TC') TOP OF CURB ELEVATION
 (Symbol: Arrow with %) PERCENT AND DIRECTION OF SURFACE FLOW DRAINAGE
 (Symbol: Arrow) OVERLAND RELEASE PATH
 (Symbol: Circle with 'M') STORM DRAIN MEDIA FILTER 48" MANHOLE
 (Symbol: Square with 'T') TREE FILTER UNIT

SITE PLAN PROVIDED BY: HUMPHREYS & PARTNERS, L.P.
 LANDSCAPE PLAN PROVIDED BY: HUMPHREYS & PARTNERS, L.P.
 RECORD BOUNDARY PROVIDED BY: RUTH & GOING, INC.
 ALTA SURVEY PROVIDED BY: RUTH & GOING, INC.
 AERIAL TOPOGRAPHY PROVIDED BY: RUTH & GOING, INC.

CAPITOL AVENUE HIGHRISE SITE

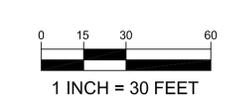
GRADING AND DRAINAGE PLAN

750 E. CAPITOL L.P.
 DECEMBER 22, 2011 MILPITAS, CA HPA#11236



LEGEND

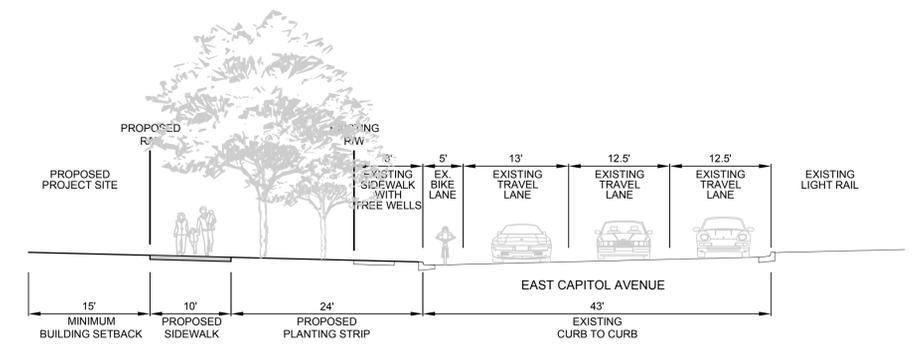
PROJECT BOUNDARY	---
PROPERTY LINE (EXISTING)	---
EASEMENT	---
STORM DRAIN PIPE	---
STORM DRAIN PIPE (EXISTING)	---
STORM DRAIN MANHOLE	○
STORM DRAIN MANHOLE (EXISTING)	⊙
CURB INLET	▲
CURB INLET (EXISTING)	△
CATCH BASIN	□
CATCH BASIN (EXISTING)	⊠
STORM DRAIN MEDIA FILTER 48" MANHOLE	⊙
TREE FILTER UNIT	⊙
PERCENT AND DIRECTION OF SURFACE FLOW DRAINAGE	X%
OVERLAND RELEASE PATH	→
BIOTREATMENT CELL DRAINAGE AREA (62,936 SQ. FT.)	⊙
MEDIA FILTER DRAINAGE AREA (72,994.1 SQ. FT.)	⊙
TREE FILTER DRAINAGE AREA (29,417 SQ. FT.)	⊙
BIOTREATMENT CELL (1,855 SQ. FT.)	---
SELF TREATING AREA (26,278.6 SQ. FT.)	■
SELF-RETAINING AREA (21,371 SQ. FT.)	▨
PERVIOUS PAVING (8,227 SQ. FT.)	▨
GRASSCRETE (5,818 SQ. FT.)	▨



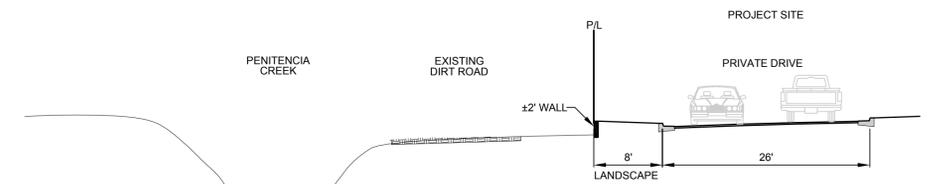
CAPITOL AVENUE HIGHRISE SITE

CONCEPTUAL STORMWATER CONTROL PLAN

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TYPICAL EAST CAPITOL AVENUE HALF STREET SECTION
NOT TO SCALE

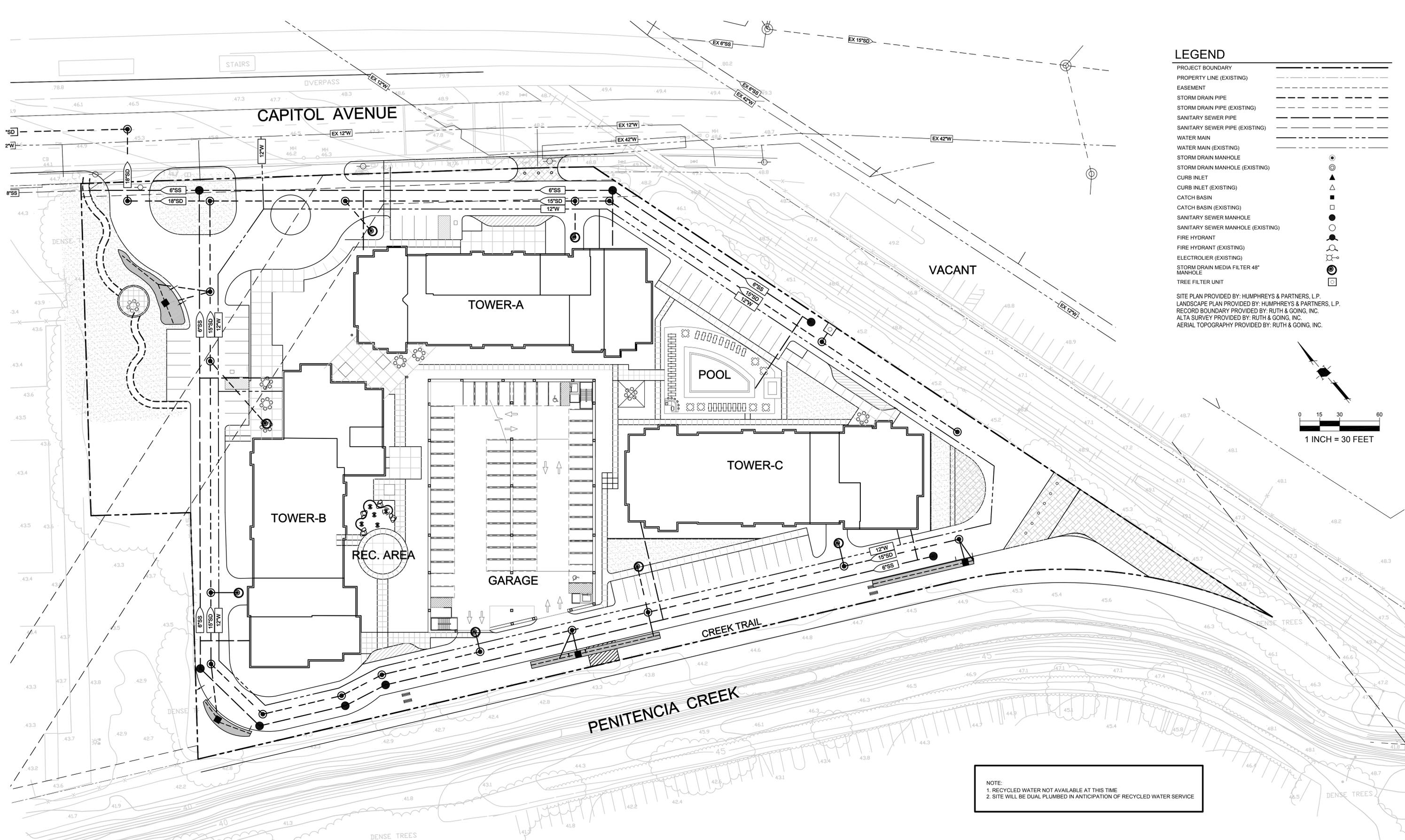


TYPICAL SOUTHERN PROPERTY LINE SECTION
NOT TO SCALE

CAPITOL AVENUE HIGHRISE SITE

TYPICAL CROSS SECTIONS

DECEMBER 22, 2011 750 E. CAPITOL L.P. HPA#11236
 MILPITAS, CA



LEGEND

- PROJECT BOUNDARY
- PROPERTY LINE (EXISTING)
- EASEMENT
- STORM DRAIN PIPE
- STORM DRAIN PIPE (EXISTING)
- SANITARY SEWER PIPE
- SANITARY SEWER PIPE (EXISTING)
- WATER MAIN
- WATER MAIN (EXISTING)
- STORM DRAIN MANHOLE
- STORM DRAIN MANHOLE (EXISTING)
- CURB INLET
- CURB INLET (EXISTING)
- CATCH BASIN
- CATCH BASIN (EXISTING)
- SANITARY SEWER MANHOLE
- SANITARY SEWER MANHOLE (EXISTING)
- FIRE HYDRANT
- FIRE HYDRANT (EXISTING)
- ELECTROLIER (EXISTING)
- STORM DRAIN MEDIA FILTER 48" MANHOLE
- TREE FILTER UNIT

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 LANDSCAPE PLAN PROVIDED BY: HUMPHREYS & PARTNERS, L.P.
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 ALTA SURVEY PROVIDED BY: RUTH & GOING, INC.
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NOTE:
 1. RECYCLED WATER NOT AVAILABLE AT THIS TIME
 2. SITE WILL BE DUAL PLUMBED IN ANTICIPATION OF RECYCLED WATER SERVICE

CAPITOL AVENUE HIGHRISE SITE

UTILITY PLAN

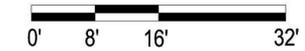
750 E. CAPITOL L.P.
 DECEMBER 22, 2011 MILPITAS, CA HPA#11236



STONE VENEER

TOWER A NORTH ELEVATION- ALONG CAPITOL AVE.
TOWER C SOUTH ELEVATION (MIRRORED-SIMILAR)

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

MILPITAS, CA

HPA#11236



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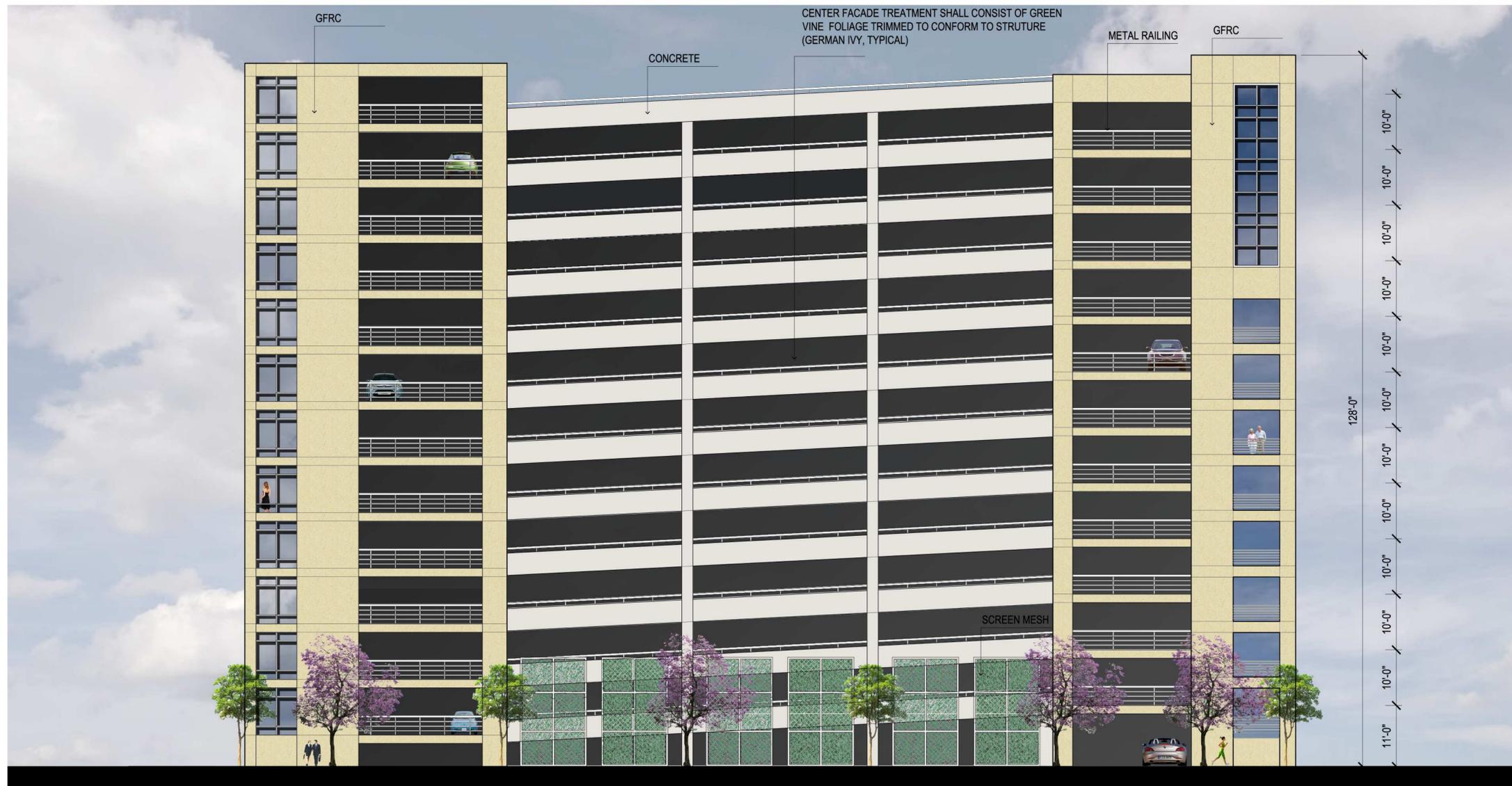
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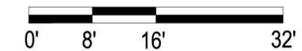
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DEC. 15, 2011



GARAGE WEST ELEVATION- FACING TOWER B
EAST ELEVATION SIMILAR

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE
750 E. CAPITOL L.P.

DEC. 15, 2011

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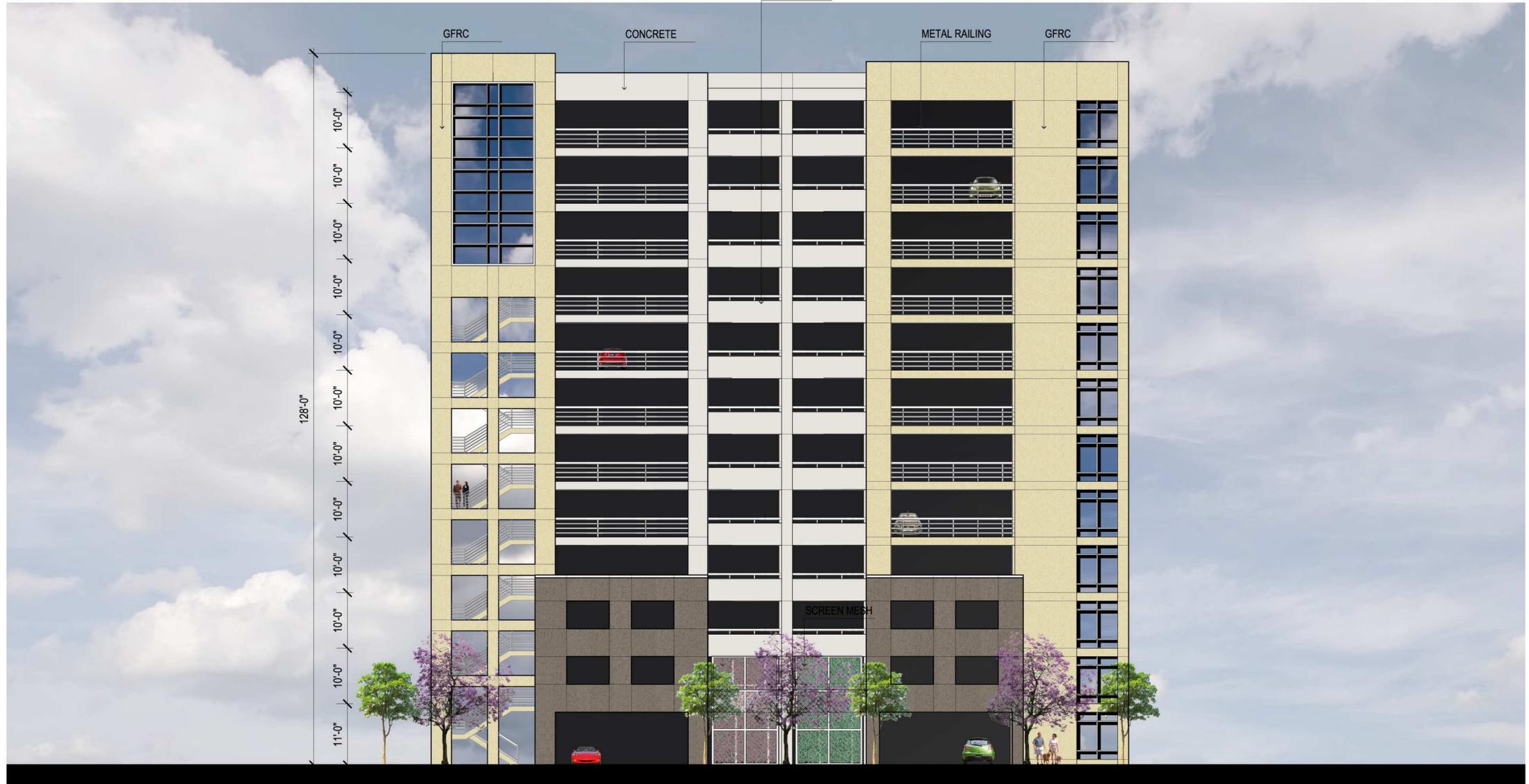
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CENTER FACADE TREATMENT SHALL CONSIST OF GREEN VINE FOLIAGE TRIMMED TO CONFORM TO STRUCTURE (GERMAN IVY, TYPICAL)



GARAGE SOUTH ELEVATION- ALONG CREEK

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

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TOWER B WEST ELEVATION- FACING MILPITAS BLVD. EXTENSION

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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TOWER C NORTH ELEVATION- ALONG CAPITOL AVE.
 TOWER A SOUTH ELEVATION (MIRRORED/ SIMILAR)

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

DEC. 15, 2011

MILPITAS, CA

HPA#11236



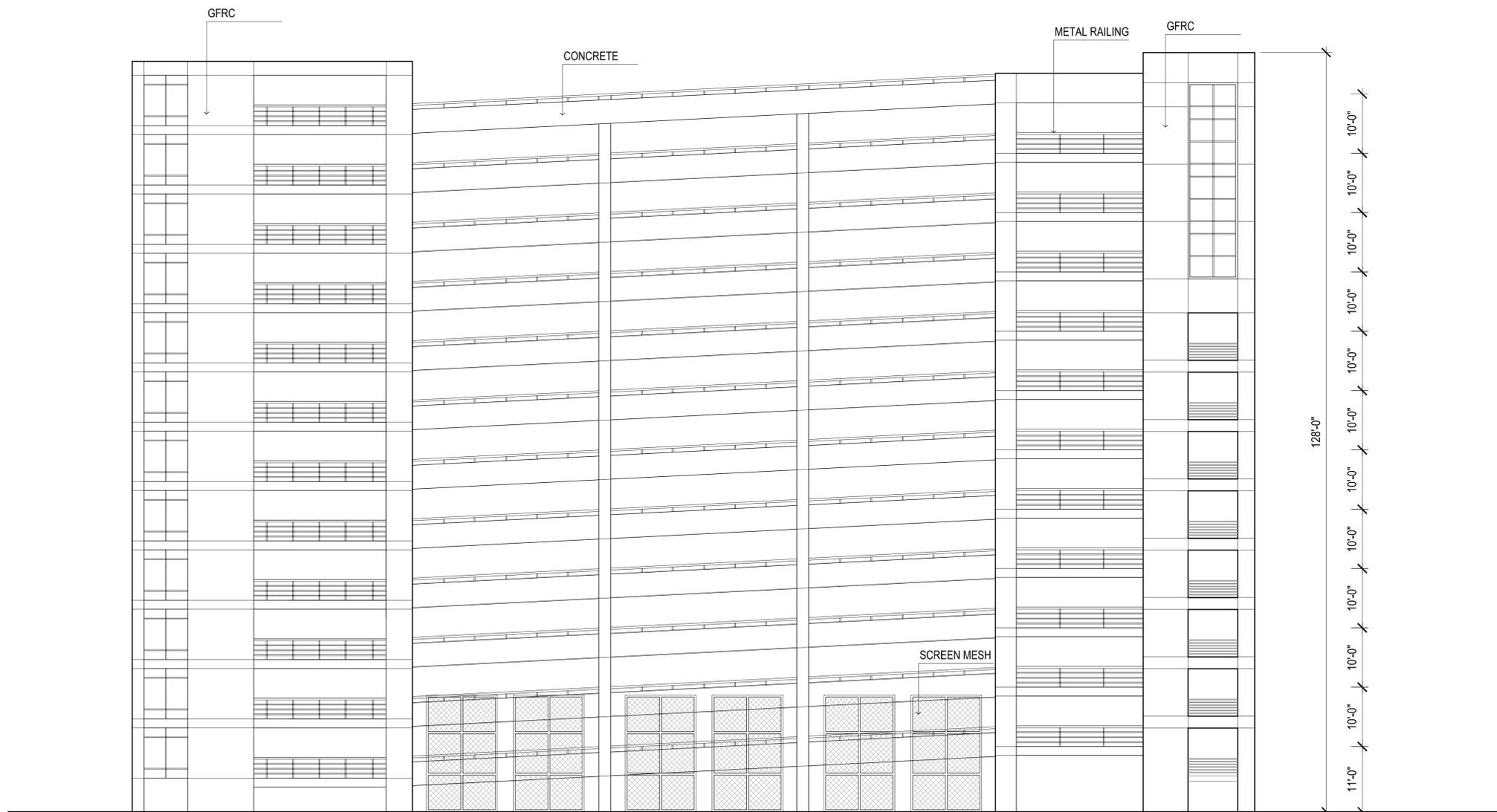
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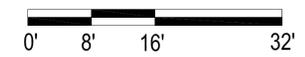
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GARAGE WEST ELEVATION- FACING TOWER B

SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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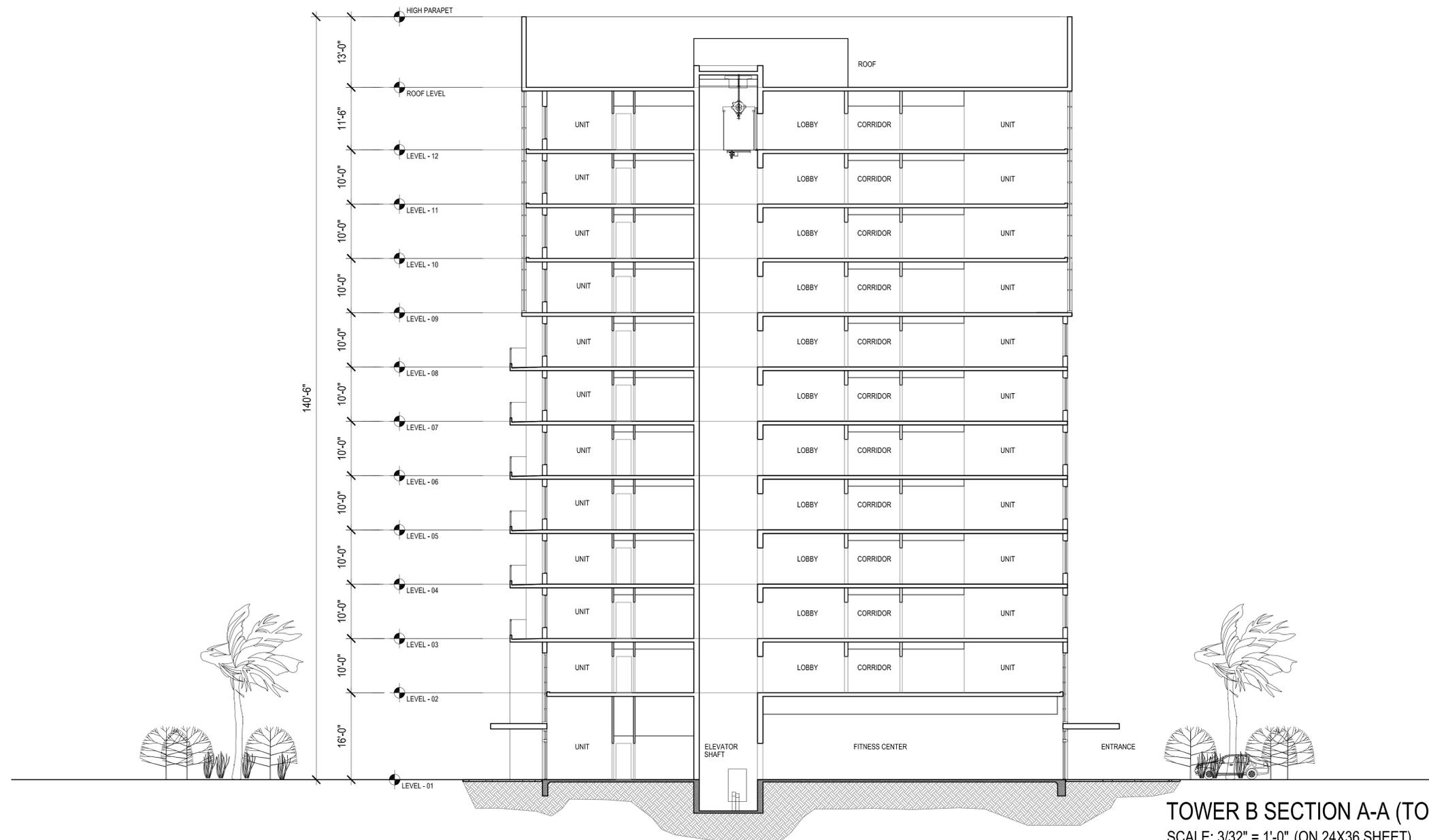
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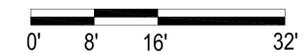
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TOWER B SECTION A-A (TOWERS A & C SIM.)
SCALE: 3/32" = 1'-0" (ON 24X36 SHEET)



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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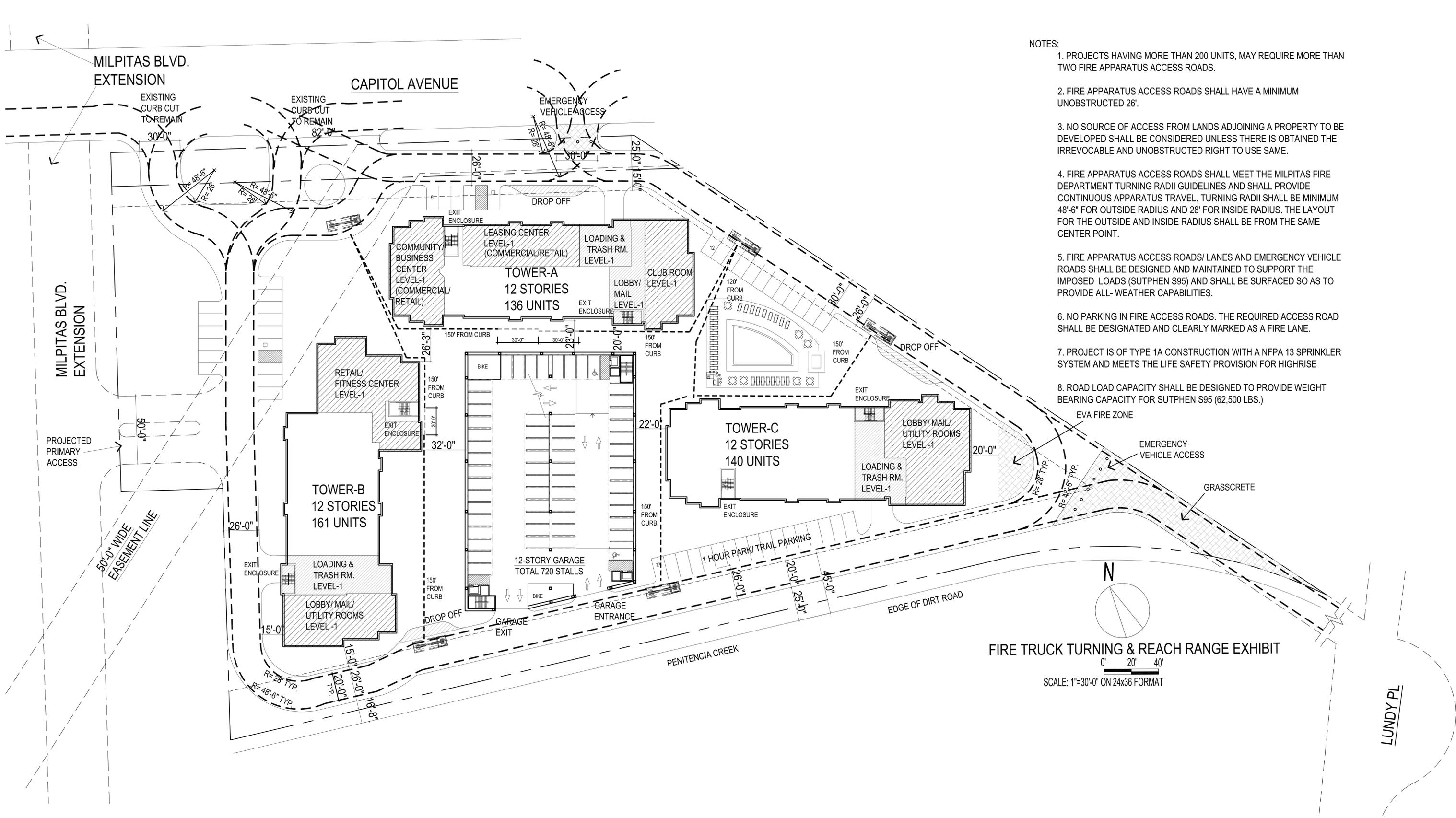
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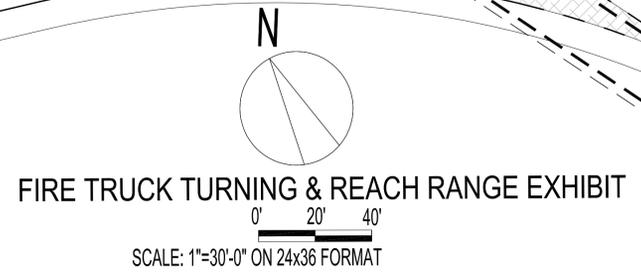
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- NOTES:
1. PROJECTS HAVING MORE THAN 200 UNITS, MAY REQUIRE MORE THAN TWO FIRE APPARATUS ACCESS ROADS.
 2. FIRE APPARATUS ACCESS ROADS SHALL HAVE A MINIMUM UNOBSTRUCTED 26'.
 3. NO SOURCE OF ACCESS FROM LANDS ADJOINING A PROPERTY TO BE DEVELOPED SHALL BE CONSIDERED UNLESS THERE IS OBTAINED THE IRREVOCABLE AND UNOBSTRUCTED RIGHT TO USE SAME.
 4. FIRE APPARATUS ACCESS ROADS SHALL MEET THE MILPITAS FIRE DEPARTMENT TURNING RADII GUIDELINES AND SHALL PROVIDE CONTINUOUS APPARATUS TRAVEL. TURNING RADII SHALL BE MINIMUM 48'-6" FOR OUTSIDE RADIUS AND 28' FOR INSIDE RADIUS. THE LAYOUT FOR THE OUTSIDE AND INSIDE RADIUS SHALL BE FROM THE SAME CENTER POINT.
 5. FIRE APPARATUS ACCESS ROADS/ LANES AND EMERGENCY VEHICLE ROADS SHALL BE DESIGNED AND MAINTAINED TO SUPPORT THE IMPOSED LOADS (SUTPHEN S95) AND SHALL BE SURFACED SO AS TO PROVIDE ALL- WEATHER CAPABILITIES.
 6. NO PARKING IN FIRE ACCESS ROADS. THE REQUIRED ACCESS ROAD SHALL BE DESIGNATED AND CLEARLY MARKED AS A FIRE LANE.
 7. PROJECT IS OF TYPE 1A CONSTRUCTION WITH A NFPA 13 SPRINKLER SYSTEM AND MEETS THE LIFE SAFETY PROVISION FOR HIGHRISE
 8. ROAD LOAD CAPACITY SHALL BE DESIGNED TO PROVIDE WEIGHT BEARING CAPACITY FOR SUTPHEN S95 (62,500 LBS.)



CAPITOL AVENUE HIGHRISE SITE

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TOWER A
FIRST FLOOR PLAN
SCALE: 1/8"=1'-0" ON 24x36 FORMAT
0' 8' 16'

CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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TOWER C
FIRST FLOOR PLAN

SCALE: 1/8"=1'-0" ON 24x36 FORMAT



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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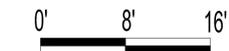
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TOWERS A & C
UPPER FLOOR PLAN

SCALE: 1/8"=1'-0" ON 24x36 FORMAT



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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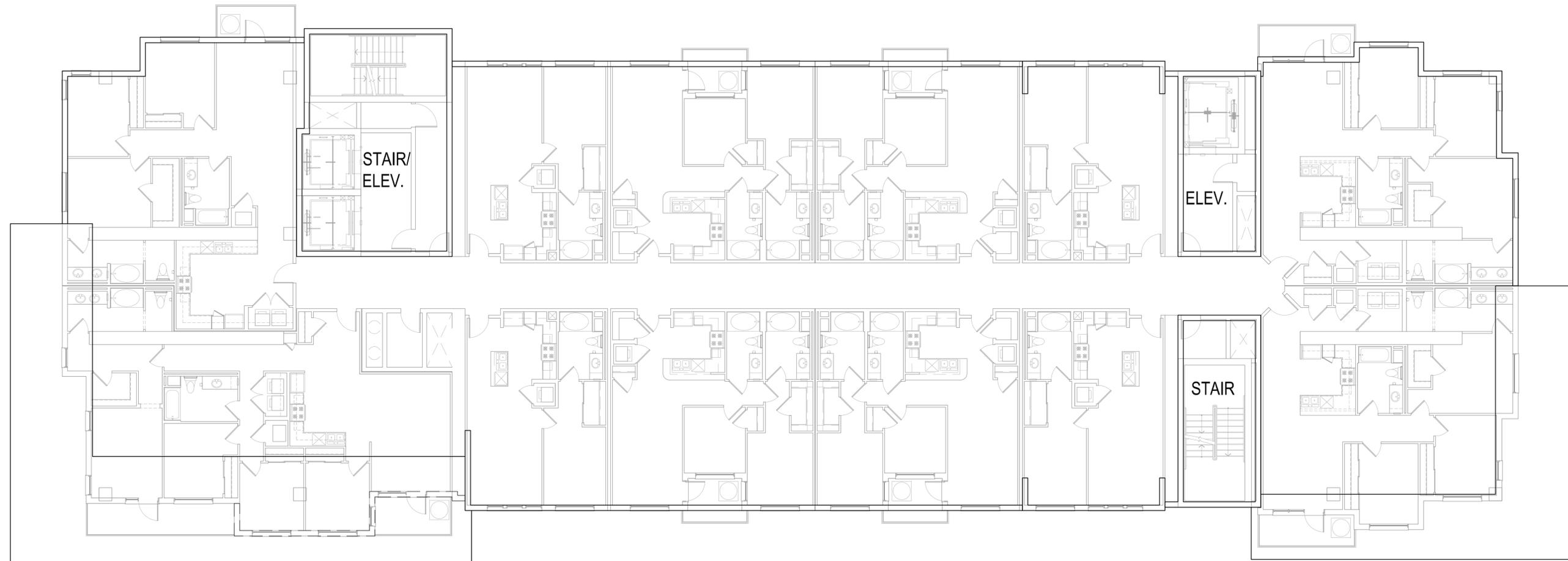
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TOWERS A & C
ROOF PLAN

SCALE: 1/8"=1'-0" ON 24x36 FORMAT



CAPITOL AVENUE HIGHRISE SITE

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TOWER B
 FIRST FLOOR PLAN
 SCALE: 1/8"=1'-0" ON 24x36 FORMAT
 0' 8' 16'

CAPITOL AVENUE HIGHRISE SITE
 750 E. CAPITOL L.P.

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TOWER B
UPPER FLOOR PLAN
SCALE: 1/8"=1'-0" ON 24x36 FORMAT
0' 8' 16'

CAPITOL AVENUE HIGHRISE SITE
750 E. CAPITOL L.P.

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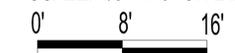
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TOWER B
ROOF PLAN

SCALE: 1/8"=1'-0" ON 24x36 FORMAT



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

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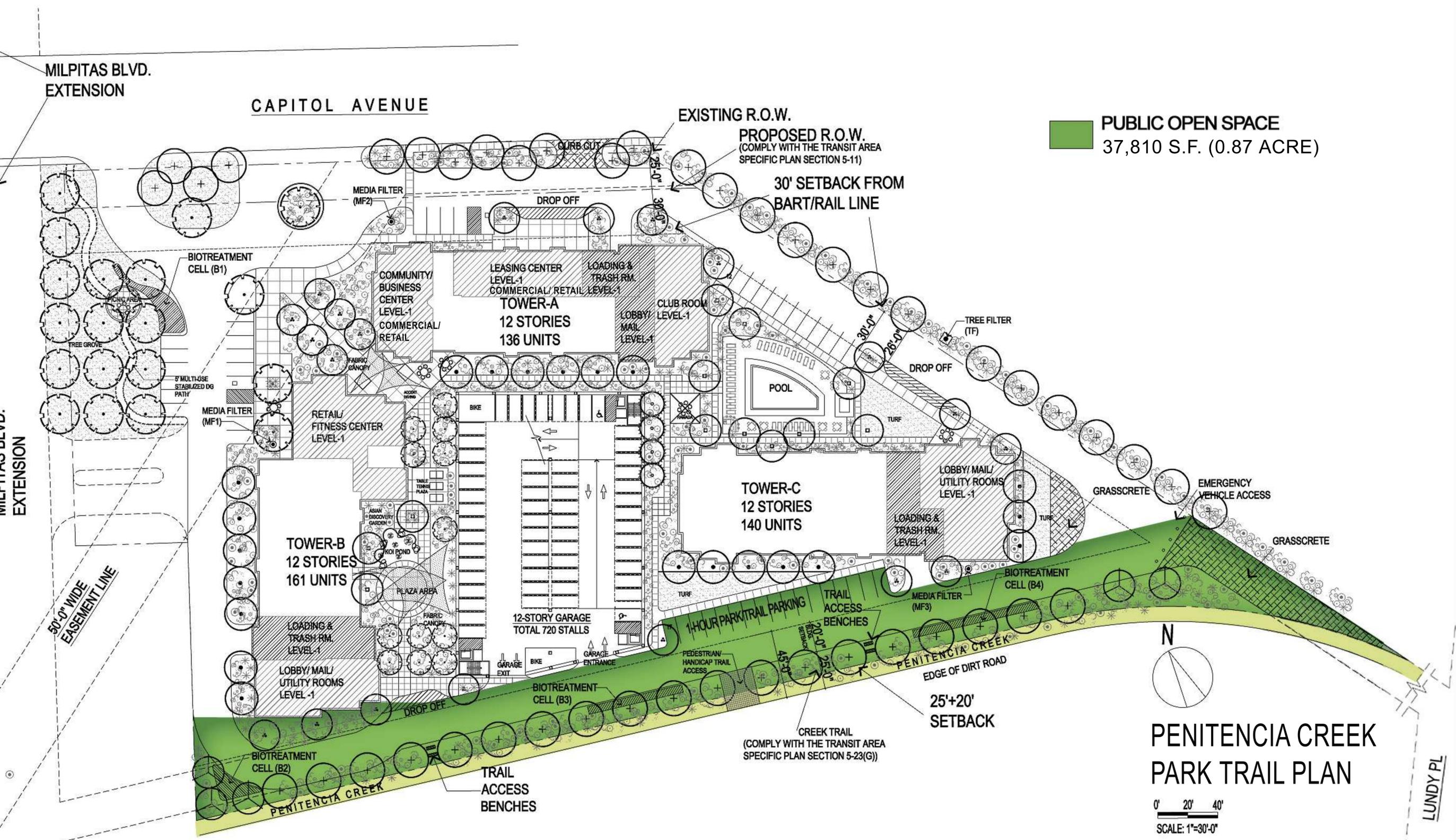
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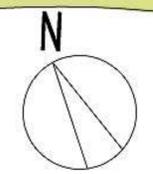
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PUBLIC OPEN SPACE
37,810 S.F. (0.87 ACRE)



**PENITENCIA CREEK
PARK TRAIL PLAN**

0' 20' 40'
SCALE: 1"=30'-0"

Designed by: DRE
 Drawn by:
 Architect of Record: DAN ERLANDSON
 Date Plotted: 12/14/2011
 Issue for Pricing/Bidding:
 Issue for Permit Application:
 Issue for Construction:

Revisions:		
#	DATE	COMMENTS

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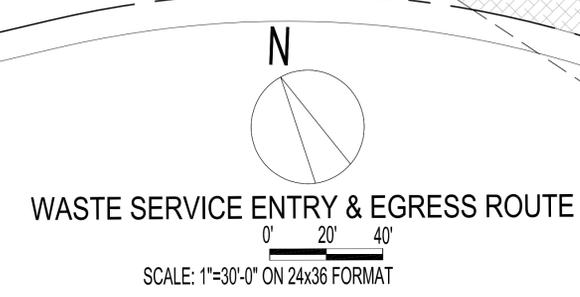
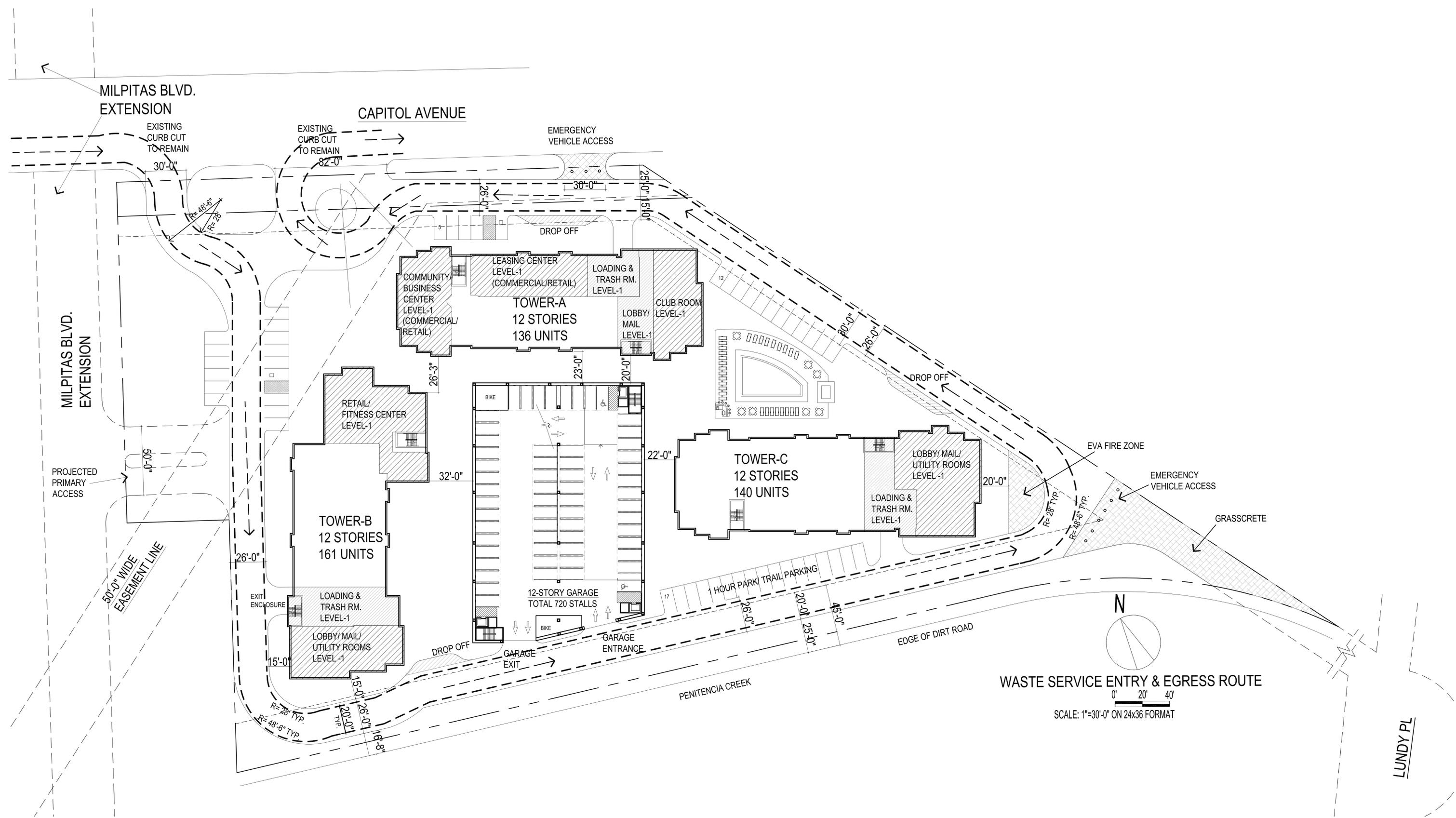
Capitol Avenue Highrise Site
750 East Capitol L.P.
Milpitas, CA



HUMPHREYS & PARTNERS ARCHITECTS, L.P.
 5309 ALPHA ROAD SUITE 300
 DALLAS, TEXAS 75240
 (972) 701-9608 (972) 701-9609 FAX
 DALLAS CHARLOTTE IRVINE LAS VEGAS
 NEW ORLEANS NORFOLK ORLANDO PHOENIX
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 landscape architecture, llc
 5309 alpha rd suite 300
 dallas, tx 75240
 p 214.269.5150 f 972.701.9609
 www.hplstudio.com

SHEET CONTENTS:
 SHEET NO.
 HPA # 11236



CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

DEC. 15, 2011

MILPITAS, CA

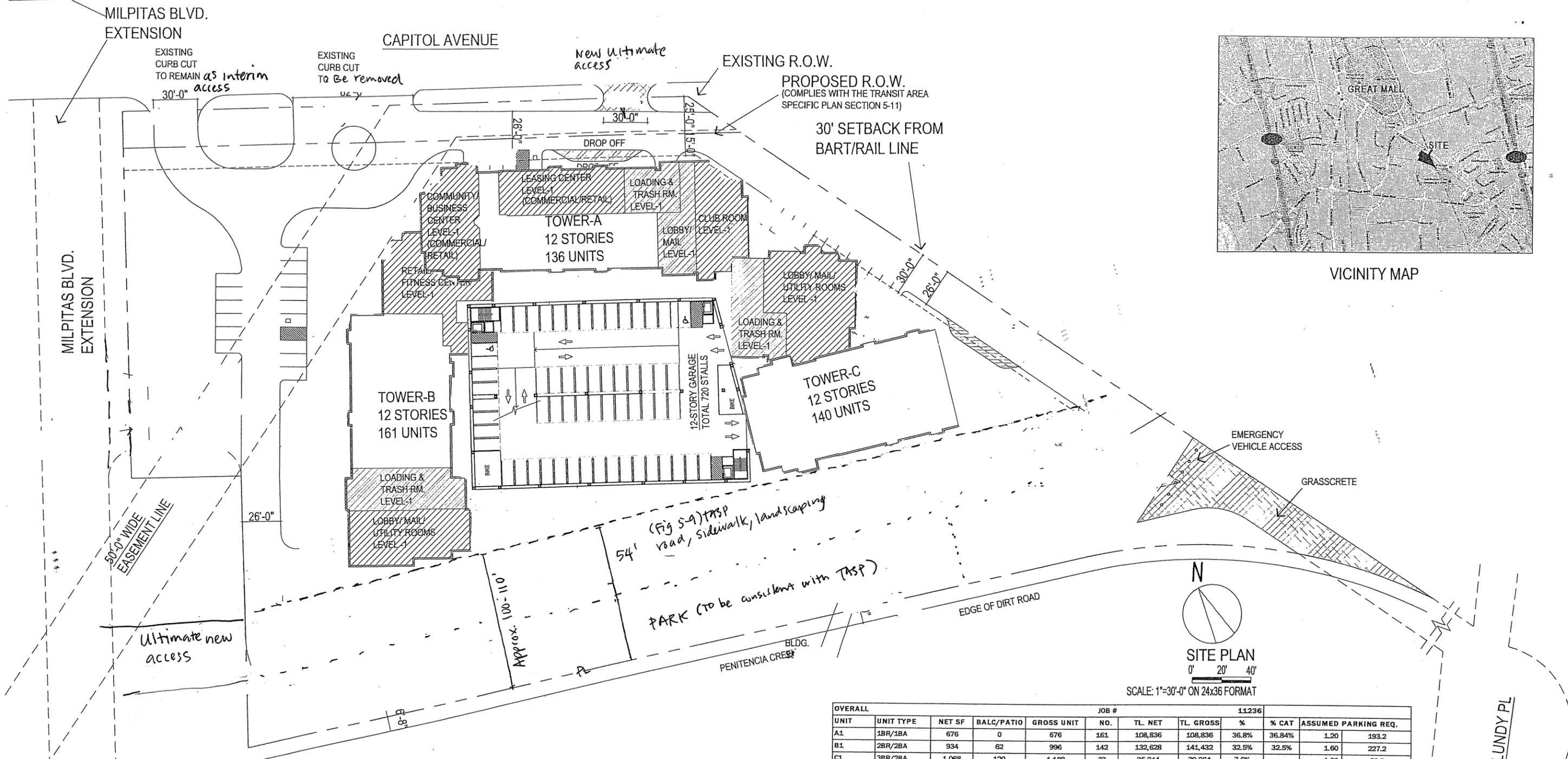
HPA#11236



HUMPHREYS & PARTNERS ARCHITECTS L.P.

5339 Alpha Road, Suite 300 Dallas, TX 75240 (972) 701-9636 (972) 701-9639
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 DALLAS CHARLOTTE IRVINE LAS VEGAS NEW ORLEANS NORFOLK ORLANDO PHOENIX

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GROSS LAND AREA:	5,126 (+/-) ACRES
TOTAL UNITS:	437
GROSS DENSITY:	85
PARKING PROVIDED:	4,200 S.F.
RESIDENTIAL GARAGE:	720 SPACES
SURFACE PARKING:	34 SPACES
RES. TOTAL:	754 SPACES
RETAIL/FITNESS:	15 SPACES
TOTAL ON SITE:	769 SPACES

BICYCLE PARKING:	109 SPACES
(LOCATED INSIDE GARAGE)	
ON STREET GUEST BICYCLE:	38 SPACES
RETAIL/FITNESS:	4,200 S.F.
CLUB/LEASING/COMM. CENTER:	8,300 S.F.

OVERALL		JOB # 11236									
UNIT	UNIT TYPE	NET SF	BALC/PATIO	GROSS UNIT	NO.	TL NET	TL GROSS	%	% CAT	ASSUMED PARKING REQ.	
A1	1BR/1BA	676	0	676	161	108,836	108,836	36.8%	36.84%	1.20	193.2
B1	2BR/2BA	934	62	996	142	132,628	141,432	32.5%	32.5%	1.60	227.2
C1	3BR/2BA	1,068	120	1,188	33	35,244	39,204	7.6%		1.60	52.8
C2	3BR/2BA	1,310	168	1,478	4	5,240	5,912	0.9%		1.60	6.4
C3	3BR/2BA	1,295	75	1,370	46	59,570	63,020	10.5%		1.60	73.6
C4	3BR/2BA	1,392	62	1,454	22	30,624	31,988	5.0%		1.60	35.2
C5	3BR/2BA	1,389	185	1,574	8	11,112	12,592	1.8%		1.60	12.8
D1	4BR/2BA	1,526	138	1,664	7	10,682	11,648	1.6%		2.60	18.2
D2	4BR/2BA	1,670	225	1,895	14	23,380	26,530	3.2%	30.7%	2.60	36.4
TOTAL					437	417,316	441,162	100.0%	100.0%		656
AVERAGE NET UNIT SIZE :						955		S.F.		GUEST 98	
AVERAGE GROSS UNIT SIZE :						1,010		S.F.		TOTAL 754	

CAPITOL AVENUE HIGHRISE SITE

750 E. CAPITOL L.P.

DEC. 15, 2011

MILPITAS, CA

HPA#11236



HUMPHREYS & PARTNERS ARCHITECTS L.P.

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12/05/2011

Ron Morgan
750 E Capitol L.P.
1245 S. Winchester Blvd Suite 200
San Jose, CA 95128

Mr. Sheldon AhSingh
Senior Planner
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, California 95035-5411

Mr AhSingh:

750 E Capitol L.P. is developing a 437 unit three tower development in Milpitas. The project consists of three twelve story towers. While these towers are similar in design, there are differences in the elevations and characteristics due to unit sizes, clubhouse, swimming pools community space and open space.

We are envisioning this development to be an award winning green property with luxury amenities and appearance to justify its unique position as the new gateway to the City of Milpitas. Our development team has over thirty years experience developing for-sale and rental multifamily units and has created some of the most successful rental and for-sale developments in Silicon Valley. We believe this exciting project can achieve many goals that will be mutually beneficial to the citizens of Milpitas including providing much needed rental units, utilizing green building techniques, solar power, transit-based housing near jobs and shopping and include retail/commercial space on-site to minimize traffic impacts.

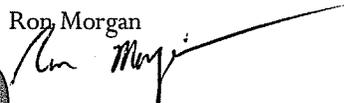
We are willing and able to assist the City in providing any of its affordable housing requirements. We are anticipating that 20% of the units across the development will be offered at 50% AMI and below, but the site is primarily market-rate due to its high cost and design features.

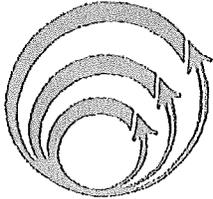
The project 750 E. Capitol Ave. is located in your Transit Area Specific Plan area. We coordinated with your planning department and have incorporated all of their comments and followed the specific plan requirements fully. We understand and have met with VTA, Bart, SCVWD etc to ensure our development meets their timing and land use needs for their future uses.

We are attaching a site plan, and elevations to give you an idea of the size and scope of this development. In order to accommodate the specific plan preference for 90 units to the acre we have designed three high rise towers on the site with a twelve-story parking structure. We are also including opportunities for retail and commercial space on the ground floor of the site to provide needed services to the current neighborhood and future residents.

We are fully aware of the future plans (although they are not firm yet) of VTA, PGE and Bart and are working to coordinate our development with them

Ron Morgan





Confidential Compliance Company, Inc.



12-19-2011

750 E. Capitol Avenue, LP
 c/o Community Housing Developers
 1245 S. Winchester Boulevard; Suite 200
 San Jose, CA 95128

Re: Screening Roadway Health Risk Analysis
 750 E. Capitol Avenue, Milpitas, California

Mr. Stuart:

Confidential Compliance Company (CCC), after an in-depth review of the City of Milpitas 2008 Transit Area Specific Plan (TASP) and all State of California regulatory documents pertaining to the conducting of a Toxic Air Contaminant (TAC) study, has formulated an action plan for your development team to achieve full compliance with the City of Milpitas Planning Department requirements.

Policy 5.25 of the 2008 City of Milpitas Transit Area Specific Plan (TASP) states:

"For new residential development that is proposed within 500 feet of active rail lines where vehicles emit diesel exhaust, or roadways where total daily traffic volumes from all roadways within 500 feet of such location exceeds 100,000 vehicles per day, will, as part of its CEQA review, include an analysis of toxic air contaminants (which includes primarily, diesel particulate matter [DPM]). If the results show that the carcinogenic human health risk ["cancer risk"] exceeds the 10 people in a million standard for carcinogenic human health impacts established by the Bay Area Air Quality Management District (BAAQMD), the City may require upgraded ventilation systems with high efficiency filters, or other equivalent mechanisms to minimize exposure of future residents."

The attached Environmental Summary provides the background and basis of the professional conclusions offered within this report, as it pertains to TAC.

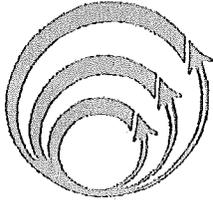
If there are any questions concerning the content or actions recommended, or if your development team requires additional support guidance, please free to contact me directly.

Submitted:

G.H. Thomas, II REA

59 West Mendocino Street: Altadena, CA 91001 831-212-1180 Office 626-798-9555 Fax

e-mail: cconsultants@msn.com



Confidential Compliance Company, Inc.



Toxic Air Contaminants Study Assessment

DATE: 12-06-2011

CLIENT: 750 E. CAPITOL AVENUE, LP

ADDRESS: % COMMUNITY HOUSING DEVELOPERS
1245 S. Winchester Boulevard, Suite 200
San Jose, CA 95128

SUBJECT SITE: 750 E. CAPITOL AVENUE
Milpitas, California 95035

PROJECT: Toxic Air Contaminants (TAC) Study Assessment

PROJECT DATE: 11-25-2011 through 12-06-2011

RESEARCHER: G.H. THOMAS, II

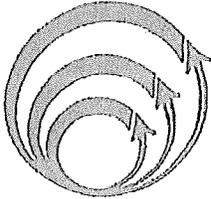
R.E.A. NUMBER 04410



EXECUTIVE SUMMARY:

Confidential Compliance Company (CCC) was tasked with conducting research associated with achieving compliance with the City of Milpitas 2008 Transit Area Specific Plan (TASP), specifically Policy 5.25.

"For new residential development that is proposed within 500 feet of active rail lines where vehicles emit diesel exhaust, or roadways where total daily traffic volumes from all roadways within 500 feet of such location exceeds 100,000 vehicles per day, will, as part of its CEQA review, include an analysis of toxic air contaminants (which includes primarily, diesel particulate matter [DPM]). If the results show that the carcinogenic human health risk ["cancer risk"] exceeds the 10 people in a million standard for carcinogenic human health impacts established by the Bay Area Air Quality Management District (BAAQMD), the City may require upgraded ventilation systems with high efficiency filters, or other equivalent mechanisms to minimize exposure of future residents."



Confidential Compliance Company, Inc.



To comply with the requirements of the City of Milpitas 2008 Transit Area Specific Plan (TASP), a study of established air analysis for both railway operations and motor vehicle traffic would be required, addressing specifically, "diesel particulate matter [DPM]." Further, as the single most significant contributor to an increase in present DPM generators would be anticipated during "new construction," an overview of construction management practices to minimize the introduction of construction related DPM has been addressed for consideration by the development team

VEHICLE TRAFFIC:

The vehicle traffic volume along E. Capitol Avenue at the subject site has been estimated at approximately 33,000 vehicles per day. In the absence of specific traffic data from the City of Milpitas, the traffic volume along E. Capitol Avenue at the project site was calculated based on the measured noise levels over a specific monitoring period¹. This estimation falls well below the threshold specified in the TASP, Policy 2.5 (i.e. "in excess of 100,000 vehicles per day"). It is a reasonable assumption that, given a total volume of 33,000 vehicles per day, the number of diesel fueled vehicles would be significantly less. As such, human exposure to excessive levels of DPM appears unlikely.

LIGHT RAIL:

The present "rail" operations opposite the subject site consists of the VTA Light Rail operating along the center of Capitol Avenue. This system is not diesel powered and the does not contribute to the concern of human exposure to DPM.

RAILWAY OPERATION:

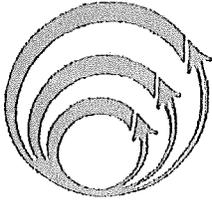
The Union Pacific Railway operates a single trip in the northern and single trip in the southern direction daily, delivering freight. This operation, minimal as it is, is soon to be replaced by the BART extension. Tentative construction is scheduled approximately simultaneous to the subject development. The result would therefore, eliminate the railway as a potential diesel particulate contaminant generator. The change in operational rail use from diesel to electric further reduces human exposure to DPM.

NEW CONSTRUCTION:

New construction is anticipated to temporarily increase the number of DPM generators, and adds potential receptors (employees) during the construction period. This is an unavoidable facet of construction.

The new construction schedule at the subject site is anticipated at EIGHTEEN (18) months for Phase-One and an additional like period for Phase-Two. The developer is implementing a "Best Management Practice (BMP) clause in the General Contractor agreement for the monitoring and minimization of DPM as well as receptor (employee) protection, and is

¹ *Noise and Vibration Study, Report #43-038, Pack and Associates, 9-09-2011*



Confidential Compliance Company, Inc.



commissioning "third-party" monitoring to assure compliance with the specified BMP requirements.

Based on the observations noted and the intended implementation of contractual mitigation controls, the anticipated level of measurable DPM at the subject site appears slight.



DISCUSSION: A physical site visit and study of the surrounding geographical area resulted in the following conclusions:

1. The planned project is intended to be a residential housing development, providing approximately 437 residential units.
2. The site is located on E. Capitol Avenue, a major traffic thoroughfare.
3. The site is opposite the operational elevated VTA Light Rail.
4. The site is immediately adjacent an operational railway line; i.e. Union Pacific.
5. The neighboring site to the west of the subject site is an operational trucking freight transfer facility; i.e. Roadway.

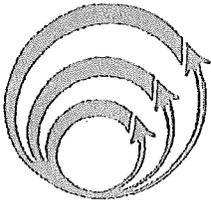
The development project consists of THREE (3), TWELVE (12) story residential towers, and a single TWELVE (12) story parking garage for residential use. The project is being designed as a LEED New Construction project and has a significant amount of "green" designed into the entire development. The current landscape plan calls for over FIFTY-THOUSAND (50,000+) square feet of "hydrozone," in addition to over ELEVEN-THOUSAND (11,000+) square feet turf (Fescue).

The generous landscape plan creates a significant off-set in relation to "diesel particulate matter ([DPM]" contaminant presence, as this component (hydrozone) is a leading mitigation methodology in areas where high DPM content exists and where mitigation may be required.

Addressing the "potential" DPM generators, this initial survey included: 1) Capitol Avenue vehicle traffic density; 2) The Union Pacific Railway (future BART extension); 3) The adjacent Roadway trucking freight terminal; and 4) New Construction.

VEHICLE TRAFFIC:

As previously stated, the calculated density along Capitol Avenue at the subject site is approximately 33,000 vehicles per day. The minimum distance between a potential receptor at the closest residential tower, and a generator in the nearest traffic lane, is approximately FIFTY-FIVE (55) feet. That is a calculated measurement from the closest tower ground-floor window to the edge of the first vehicle driving lane. It should be noted that the current



Confidential Compliance Company, Inc.



development design depicts "non-operational" windows. This would further minimize direct DPM exposure to a potential receptor, assuming that the structure ventilation intake was not located at the ground level, directly opposite Capitol Avenue traffic.

As the physical properties of DPM are, "heavier than air," the inherent nature of DPM upon generation is to migrate downward to earth. These are additional facts to consider when making a total analysis of TAC and in particular, DPM.

RAILWAY OPERATION:

The Union Pacific Railway presents a variable due to the announced new construction and transition from diesel powered locomotive to non-diesel powered BART system. Based on the advanced state of the BART transition, the calculation of DPM from the present Union Pacific Railway would not be a factor by the completion date of the residential structures, and is therefore not a consideration with regards to DPM.

TRUCKING FREIGHT OPERATION:

Addressing the present trucking freight terminal, we are presented with the single most probable DPM generator within the proximity of the subject development. Calculations of potential DPM would require an audit of the total number of generators (diesel-powered trucks), the approximation of the total amount of "idle-time" of all generators per operational day, and the total number of operational days per year. Acquisition of this information would require considerable information regarding trucking schedules, operational time calculations, etc., and would be subject to the "generosity" of the trucking operation.

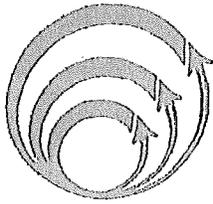
Absent full cooperation of the trucking company, an analysis would be based on general observation. This calculation would, at best, would be an approximation only.

NEW CONSTRUCTION:

As a normal part of "new construction," there are certain physical practices that would be anticipated to cause an increase in the number of DPM generators, as well as potential encroachment of PM_{2.5} levels. Because these elements are "routine," and a standard part of any new construction project, it is necessary to develop a "New Construction DMP Mitigation Plan." This "plan" should be developed to minimize certain activities that may contribute to DPM emissions, and to assure that receptors (construction crew employees) are protected against excessive exposure to DPM.

Best Management Practices (BMP) include (but are not limited to):

- Minimization of diesel-powered transport vehicles idle time on-site.
- Minimization of diesel-powered equipment operation unless necessary.
- Traffic access control of diesel-powered vehicles exhibiting excessive diesel emissions.



Confidential Compliance Company, Inc.



- The use of soil-wetting (for both PM_{2.5} as well as DPM (DPM being heavier than air migrates to earth after emission))
- Use of particulate face protection by employees that are unavoidably exposed to DPM.

Interviews with the development team resulted in the following anticipated new construction schedule:

- Phase One: Tower "A" and "B" 18-months
Parking Garage 6-8 months (concurrently)
- Phase Two: Tower "C" 18-months

The execution of BMP by the General Contractor is essential to minimizing the introduction of excessive DPM during the new construction phase. The proper execution of engineering controls will minimize the DPM contribution, combined with proper monitoring of employee use of personal protective equipment (PPE) such as particulate face protection used by diesel-powered equipment operators, or those employees working in close proximity to DPM generators, will greatly reduce DPM-RECEPTOR effects.

SUMMARY:

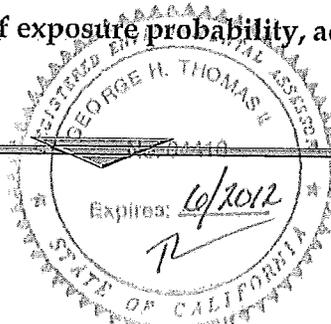
Summarizing the potential DPM generators, it is apparent that the single most likely "uncontrollable" potential generator would be the trucking operation adjacent the subject development to the west. The developer has included a significant amount of "hydrozone" along the western portion of the development, including approximately 1-3/4 acres of specimen sized trees and a considerable amount of turf (Dwarf Fescue). The selection of these trees and grasses was designed to introduce draught-tolerant species that would promote an overall "green" landscape, while providing natural mitigation of DPM.

CONCLUSION:

The above summary identifies the present "potential generators," and provides a reasonable basis to anticipate a minimal likelihood of an increase of receptor exposure to DPM. As a result of the "green" landscape approach integrated into the development design, natural mitigation exists to further decrease receptor exposure to DPM in the event of unforeseen generator presence.

For a complete quantitative analysis of exposure probability, additional study of BAAQMD developed models would be required.

G.H. THOMAS, II REA



**RECEIVED**

FEB 10 2012

CITY OF MILPITAS
PLANNING DIVISION

February 7, 2012

Diana Barnhart
City of Milpitas
Planning Division
455 East Calaveras Boulevard
Milpitas, CA 95035-5479

Subject: 750 Capitol Avenue Residential Tower Project

Dear Ms. Barnhart:

Thank you for forwarding the proposed site plan for the 750 Capitol Avenue Residential Tower Project. Santa Clara Valley Transportation Authority (VTA) appreciates your awareness of our needs for BART Silicon Valley, as well as your planned requirement for the applicant to secure written approval from VTA as a Condition of Approval. Staff has reviewed the developer's plans (sent from you as Exhibit A) and has the following comments.

PG&E Easement

In coordination with the BART Silicon Valley Project, PG&E gas transmission pipelines in the vicinity of this location are being relocated. This relocation requires a 103-foot-wide easement, extending from the future BART alignment to the future S. Milpitas Boulevard extension and adjacent to Penitencia Creek on the southern boundary of the site. The easement, which must remain clear of building structures, is in an area that has been designated as a linear park/trail and local street in the City's Transit Area Specific Plan. Based on the developer's plans that have been submitted to VTA, it will be necessary for the developer to relocate the parking structure, and buildings shown as Towers B and C to a more northerly location on the site, as you have indicated conceptually in Exhibit B. This pipeline relocation would remove the restrictions of the current PG&E easement and may allow for placement of building structures on the northwestern portion of the site.

South Milpitas Blvd. Extension

Based on the submitted plans, the primary access to the development will occur from a future extension of South Milpitas Boulevard (west of Capitol Avenue) and a new local street, both of which would be built by the developer. It should be noted that as part of the planned extension of S. Milpitas Boulevard from Montague Expressway to Capitol Avenue that VTA is constructing for BART Silicon Valley, elements such as signals and curb returns are being constructed adjacent to this planned development as part of a new signalized intersection of South Milpitas Boulevard and Capitol Avenue. The developer will need to ensure that their roadway geometry for the further extension of S. Milpitas Boulevard conforms to these elements, which VTA has closely coordinated with the City of Milpitas' Planning and Public Works departments.

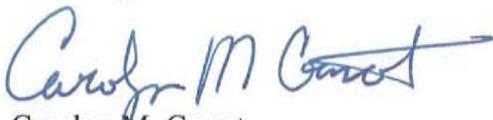
Ms. Diana Barnhart
February 7, 2012
Page 2 of 2

Construction Staging Area

VTA has identified the location of this development site as a construction staging area for BART Silicon Valley within its most current State and Federal environmental documents. As you've stated in your January 5, 2012 letter, the developer has met with VTA staff and worked out a verbal understanding with VTA to be able to begin construction of the development, while also providing the necessary staging area for VTA's construction needs. VTA and the developer have verbally agreed that the construction staging area is needed for a 30-month period. It was also discussed that based on the current site plan, Tower C (adjacent to the BART alignment and Penitencia Creek) and the Parking structure may have to be the last structures built.

VTA requests that the three key elements mentioned above be included in written Conditions of Approval for the proposed development of this location. We appreciate the opportunity to provide this information on the 750 Capitol Avenue Residential Project site. Based on the above-mentioned comments, we look forward to receiving a revised set of plans for review.

Sincerely,



Carolyn M. Gonot,
Chief SVRT Program Officer

Cc: Greg Armendariz, City of Milpitas
Bijal Patel, VTA
Leyla Hedayat, VTA



March 8, 2012

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035-5479

Subject: 750 Capitol L.P., Capitol Ave. Residential Project

Dear Mr. Armendariz,

Thank you for the opportunity to review the initial and revised proposed site plans for the 750 Capitol L.P., Capitol Ave. Residential Project. VTA appreciates your awareness of our needs for BART Silicon Valley, as well as your planned requirement for the applicant to secure written approval from VTA as a Condition of Approval.

Since my previous letter was sent in early February regarding this planned development, subsequent meetings have been conducted with PG&E, and it has been agreed that PG&E will relocate their three transmission gas pipelines in the vicinity of this development site via the South Milpitas Boulevard Alignment Option. This alignment will utilize a 103-foot wide cross-section easement through the subject property, extending from the BART alignment to the future S. Milpitas Boulevard extension, adjacent to Penitencia Creek on the southern boundary of the site. Two of the pipelines will then turn north in an easement that follows the future South Milpitas Boulevard to Capitol Avenue. PG&E is moving this alignment into the final design phase and has committed to the relocation in 2013.

With these recent developments, VTA requests that this easement continues to be a key element of the City of Milpitas' Conditions of Approval, along with the other BART Silicon Valley coordination elements that we have previously outlined in our letter dated February 7, 2012, which is enclosed. Should you have any additional questions regarding any coordination with our project for inclusion in the Conditions of Approval, please do not hesitate to contact me.

Sincerely,

Carolyn M. Gonot,
Chief SVRT Program Officer

Cc: Bijal Patel, VTA
Leyla Hedayat, VTA

Enclosure

B1203F247