AGENDA ITEM: IX-1

MILPITAS PLANNING COMMISSION
STAFF REPORT

May 14, 2014

APPLICATION: **CITATION II MIXED USE — MT13-0006, SD13-0012, UP13-0011 -** A request for a Major Vesting Tentative Map, Site Development Permit and Conditional Use Permit for the construction of 381 apartment dwelling units, 8,100 square feet of commercial and office space and associated site improvements on 5.6 acres.

RECOMMENDATION: **Staff recommends that the Planning Commission:**
Adopt Resolution No. 14-019 recommending the City Council approve Major Vesting Tentative Map, Site Development Permit and Conditional Use Permit for the construction of 381 apartment dwelling units, 8,100 square feet of commercial and office space and associated site improvements on 5.6 acres.

LOCATION:

Address/APN: **765 Montague Expressway (**APN086-32-029-026)

Area of City: Transit Area Specific Plan (TASP) area – Montague Corridor Subdistrict

PEOPLE:

Project Applicant: Jim Sullivan, SCS Development Company

Consultant(s): Jorge Duran, RJA Civil Engineers

Property Owner: SCS Development Company, a California Corporation

Project Planner: Scott Ruhland, Senior Planner

LAND USE:

General Plan Designation: Boulevard Very High Density, Mixed Use (BVMU)

Zoning District: Mixed Use, Very High Density (MXD3)

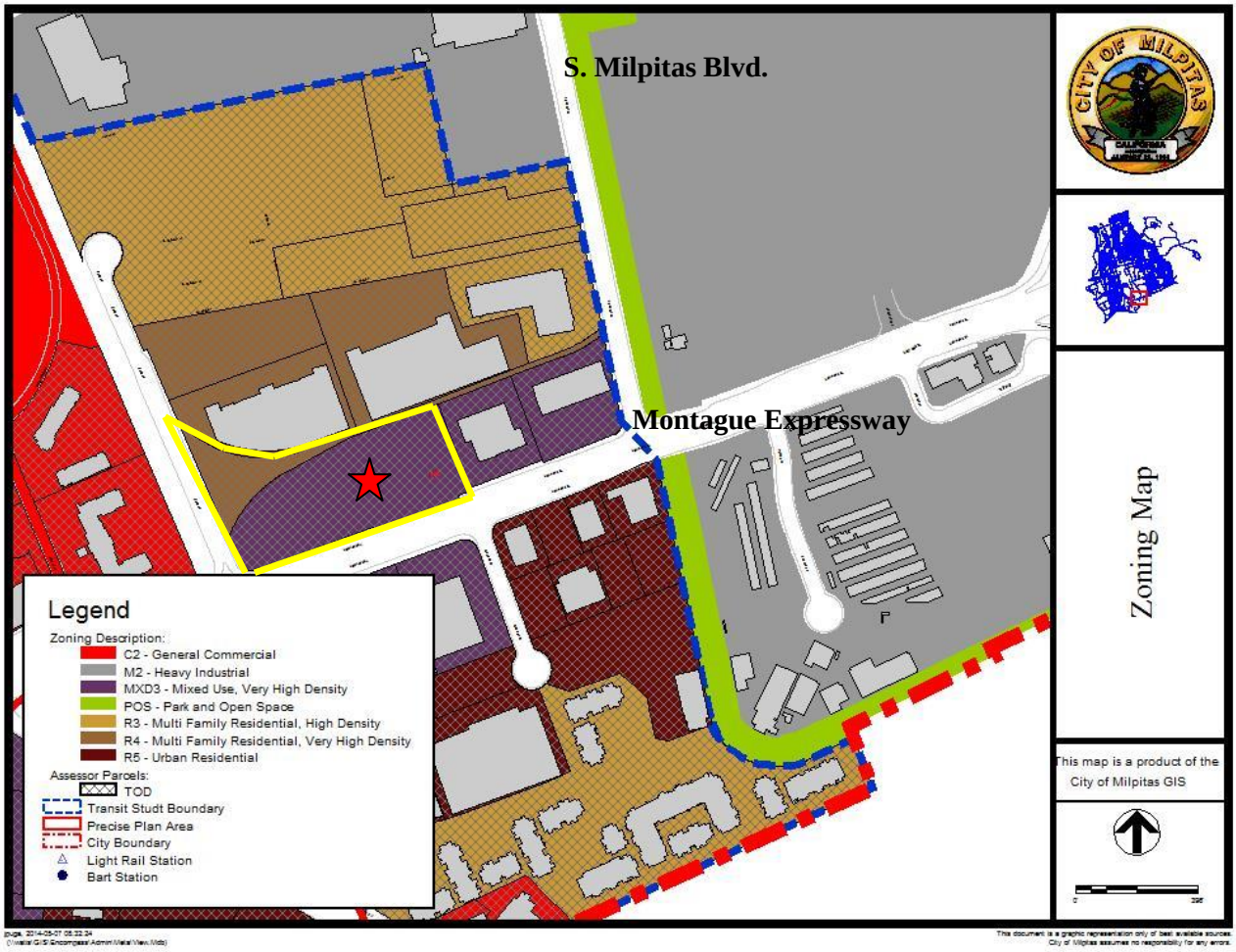
Overlay District: Transit Oriented Development (TOD) and Site and Architectural Overlay (S)

ENVIRONMENTAL: A finding is proposed that this project is within the program of the Transit Area Specific Plan EIR and no further action is required.

EXECUTIVE SUMMARY

The proposed project includes entitlement requests for the construction of a new 5-story, 381 unit mixed-use apartment building including 8,100 square feet of commercial tenant space, a six level parking structure, and two interior courtyards. The parking structure will contain 622 parking spaces and will be wrapped by the residential buildings and commercial use. The project also includes a variety of site improvements including a new private street along the rear and side of the building; streetscape and landscape improvements along Piper Drive and Montague Expressway; and, stormwater treatment, utility, grading and other associated site improvements.

Map
Project Zoning



Map 2
Project Site Location

BACKGROUND

History

The project site is located in a transitioning industrial area and within the Piper/Montague Subdistrict of the Transit Area Specific Plan area. It has historically been used for trucking, distribution and warehousing operations. Other than a building sign, there have been no entitlements approved for the property since 1993. The site is currently used as a recycling collection facility.

The Application

The following is a summary of the applicant's request:

- *Site Development Permit:* To allow the construction of the buildings and site improvements.
- *Major Vesting Tentative Map:* To subdivide the parcel into one lot for condominium purposes and two common area lots.
- *Conditional Use Permit:* To allow a Major Vesting Tentative Map for condominium purposes; to allow exceptions to the Transit Area Specific Plan including a retail interior floor to ceiling height of 14 feet where 18 feet is required for retail and 15 feet is required for commercial; to allow an overall block length of approximately 650 feet where 500 feet is the maximum; and, to allow ten (10) limited term parking spaces on a public street for the commercial/office use.

PROJECT DESCRIPTION

Overview

The project includes the proposed construction of a new 5-story, 381 unit mixed-use apartment building including 8,100 square feet of commercial tenant space and two interior courtyards. The mixed-use building also includes a new 6-level parking structure with 622 parking spaces. The residential and commercial units will wrap the parking structure. The project will include: a new private street along the rear and side of the building providing access to parking structure; street frontage and landscaping improvements along Piper Drive and Montague Expressway; stormwater treatment areas, utilities, and associated site improvements.

Location and Context

The project site is located at 765 Montague Expressway at the northeast corner of Piper Drive. The site is located directly across from the Milpitas BART Station site. Vicinity and location maps of the subject site location are included on the previous page.

PROJECT ANALYSIS

General Plan, Specific Plan and Zoning Conformance

General Plan

The project site has a General Plan land use designation of Boulevard Very High Density Mixed Use. The intent of this designation is to provide high-density housing, retail and employment along Montague Expressway at a minimum density range of 41 units per acre, and a maximum density of 90 units per acre. The project conforms to this land use designation because a high-

density, mixed-use project is proposed at 68 units per acre which is within the specified density range of 41-90 units per acre.

Transit Area Specific Plan

The project is also located with the Montague Corridor Sub-District of the Transit Area Specific Plan (TASP) area and is designated as Boulevard Very High Density Mixed Use and TOD Overlay which qualifies the site for increased density. The project is directly across the street from the BART Station site. This designation is intended for commercial and residential mixed-use projects between 41-75 units per acre with allowances up to 90 units per acre. The TASP designation also includes a neighborhood retail designation on the corner of Montague and Piper Drive which requires a minimum of 5,000 square feet of retail. The project conforms to the TASP designation because the proposed project, at 68 units per acre, falls within the required density range at this location; and, includes 8,100 square feet of commercial space along the ground floor along the corner of Piper Drive and Montague Expressway.

The applicant is requesting two exceptions to the Transit Area Specific Plan. The first exception is in regards to floor to ceiling height for retail and office commercial space. The applicant is proposing 14-feet where 18-feet is required for retail, and 15-feet is required for office. The second exception is in regards to block dimension. The applicant is proposing an approximate 650 block length along Montague Expressway where a maximum of 500 feet is required. These two exceptions require the approval of a Conditional Use Permit.

Zoning Code

The project site is zoned MXD3, Mixed Use, Very High Density with a Transit Oriented Development (TOD) Overlay. The proposed residential and commercial uses are permitted in the zoning district. The purpose of the MXD3 zoning district is to provide areas for very high density housing and retail uses in a mixed-use format. The project conforms to the zoning district because the proposed high density mixed-use project meets the intent for this type of project envisioned in this area.

The project also conforms to the TOD Overlay by providing density of 68 units per acre, which is within the 41-75 units/acre range allowed by the TOD Overlay when combined with the MXD3 zoning district. The height of the building is also within the standards of the TOD Overlay, since five stories is proposed where up to 12-stories is allowed.

Climate Action Plan Conformance

The applicant has submitted both a residential GreenPoint Checklist, and a commercial LEED project checklist. The project will include all mandatory requirements per the California Green Building Code, CalGreen, as well as additional measures related to energy conservation, water efficiency and improved indoor air quality. They also include four electric vehicle charging stations, provisions for clean-air vehicle parking and location of short-term and long-term bicycle parking. The project will also add the appropriate infrastructure so solar panels could be installed on the roof in the future (Condition #23). The project is consistent with the following Goals and Measures of the Climate Action Plan:

- ***Goal 5:*** *Provide an economically sustainable mixed-use community focused on high-density development around central urban plazas and gathering places.*

- ***Measure 5.1: Increased Densities*** *- Continue to promote the increase of density and mixed uses in key opportunity areas, including the Midtown Specific Plan, Transit Area Specific Plan, and town center areas.*

- ***Measure 5.2: Urban Plazas*** *- Encourage development of urban plazas in new development in the Transit Area Specific Plan, Midtown Specific Plan, and town center areas to encourage pedestrian activity and vibrant mixed-use centers that reduce vehicular activity.*

The project is consistent with this goal and measures because the project includes a mixed-use, high-density development in the Transit Area. It also provides a new urban plaza at the corner of Piper Drive and Montague Expressway.

- ***Goal 6:*** *Achieve an efficient transportation system integrated into distinct areas that meets the needs of all users.*

  - ***Measure 6.1: Transit Density***
    Support high levels of ridership at the new BART station by encouraging higher density, mixed uses, and connectivity along transit corridors and at transit nodes.

  - ***Measure 6.2: BART-Friendly Environment***
    Ensure a pedestrian-friendly environment around the BART and light rail transit stations in the Midtown Specific Plan and Transit Area Specific Plan areas.

The project is consistent with this goal and measures because it provides a high-density, mixed-use project in close proximity of the future BART Station. It also creates a pedestrian friendly environment by providing new commercial uses along the street, addition of 8-12-foot sidewalks, and a new urban plaza.

Development Standards
The project conforms to the development standards required in the MXD3 and TOD Overlay Districts. The table below demonstrates how the project is consistent with these development standards.

Table 1:
Summary of Development Standards

MXD3-TOD	Standard	Proposed	Complies?
Setbacks (Minimum)			
Front	12-20 feet	18 feet	Yes
Street Side	12-20 feet	12 feet	Yes
Interior	10 feet	18 feet	Yes
Rear	15 feet	40 feet (includes private street)	Yes
Floor Area Ratio (Maximum)	Up to 2.5	1.7	Yes
Density (Units/Acre)	41-75 Unit/Acre	68 Units/Acre	Yes

MXD3-TOD	Standard	Proposed	Complies?
Building Height (Maximum)	Up to 12 stories	5 Stories	Yes

Site & Architectural Design

The entire structure consists of one large building wrapped around six levels of parking with two interior courtyards. The building exterior is designed in a contemporary style with modern elements. The building is five stories with tower elements interspersed along the roof line to provide variation in height. The façade also includes projections for window bays and balconies to provide depth along the street. These building elements are divided into sections to reduce prominence and increase visual appeal which is necessary given the building length and mass.

The retail portion of building is located along Piper Drive and wraps at the corner with Montague Expressway along approximately one-quarter of the building. This prominent corner has been designed with a contemporary urban retail image. Staff has worked with the applicant, and the City's design consultant on the architecture at this corner given its high profile, prominent location. The design will include a glass and steel façade that wraps the corner with stucco veneer, large windows and iron railing and canopies. An exterior limestone plaster finish is also used along Piper Drive and portions of Montague to provide variation in material and texture and add the appearance of a retail storefront. The storefronts along the street are designed with large retail windows, 14-foot ceiling heights and sign bands for future commercial signage. A Sign Program will be required for of the building which will include the retail signage, as well as other building signage necessary for the office and residential operations. (Condition #21)

Landscaping & Open Space Design

The project landscaping consists of streetscape improvements along Piper Drive, Montague Expressway and the two new private streets; and, the two interior courtyards proposed with the project. Streetscape improvements along Piper and Montague include London Plane street trees, Crape Myrtle and Eastern Redbud accent trees, and landscape planters that will also serve as bio-retention areas for stormwater treatment. An eight foot sidewalk will be located along Montague Expressway outside of the County right-of-way leading to Piper Drive and a large corner plaza with decorative paving and areas for outdoor seating. The sidewalk along Piper Drive will consist of eight-foot wide walkway with 4-foot by 6-foot wide tree grates along the street and a wider 12-foot sidewalk along the commercial area. These sidewalks are separated by a landscape planter but will contain three "pass-thru" connections.

The London Plane street trees along Piper, at the corner of Piper/Montague, and along a portion of Montague will be located in tree grates. The remaining street trees along Montague will be located in a landscape planter and that also serve as bio-treatment. The two private streets along the rear and side of the building will be landscaped with other varieties of large canopy street trees such as Chinese Pistache or Red Maple.

The two interior courtyards provide open space for the project and are located at ground level. The courtyards and will be surrounded by residential units. Some will have balconies that open out onto the courtyard. The western courtyard will contain the pool and clubhouse area. It will be designed as pool/sun deck area and include a trellis structure, fire pit, seating, gathering areas and accent trees. This will be the more active courtyard. The eastern courtyard will include a lawn area, fountains, patio areas and accent trees and will serve as a more passive area.

Parking
The project requires a total of 634 parking spaces based on the table below:

Table 2:
Summary of Parking Standards

Use	Parking Ratio	Amount Required
One Bedroom Units	198 units x 1.2 spaces/unit	237 spaces
Two Bedroom Units	183 units x 1.6 spaces/unit	293 spaces
Guest Parking	15% of Total	80 spaces
Retail Parking	0.8 spaces/250 square feet @ 5,400 total square feet	17 spaces
Office Parking	0.8 spaces/303 square feet @ 2,700 total square feet	7 spaces
Total Required		**634 Spaces**
Total Provided		**634 Spaces**

The Project provides a total of 634 spaces to meet this requirement. A total of 622 spaces are located in the garage, 610 of which are provided to residents and guests. Two spaces are located on site, and a total of ten spaces are located along Piper Drive. Ten (10) parking spaces are proposed along Piper Drive to meet the requirement for the retail storefront space along the Piper Drive frontage. This is allowed through Section IX-10-53.13(A)(1) of the Zoning Code which permits non-residential parking to be located within 300 feet of the use that it serves, subject to a Conditional Use Permit. This parking will serve and contribute to the success of these retail spaces. This area will be signed for retail or limited term parking and will not be available to BART patrons. Private Street A, serving only the mixed-use building, will also be designed to allow on-street parking, although it will also be signed for limited term use to discourage BART patrons. An additional six spaces are anticipated at this location.

The applicant has also included four electric vehicle charging stations and preferential parking in the parking garage to serve electric vehicles. Preferential parking in designated spaces for clean air vehicles will also be provided. Further the applicant is providing bicycle parking within the garage, and also along the public street.

Access & Circulation
The site is located along Montague Expressway at the northeast corner with Piper Drive. The building will have street frontage on all sides via Montague and Piper and two new private streets to the rear and east side of the building that are being constructed to serve the building. However, since Montague Expressway has restricted access, vehicle access to the building and parking garage is only provided from the rear via the private streets. Although the private street located to the east of the building is identified as a new local street in the TASP, the street does not serve any other properties and connects to another private street that is located on-site and only serves the mixed-use building. Staff has recommended this street be constructed as a private street. The street will contain a Public Access Easement (PAE) and an Emergency

Vehicle Access Easement (EVAE) for future access to the easterly and northerly properties if needed in the future. (Condition #28)

The project will include complete street improvements along Montague Expressway and Piper Drive consistent with the Transit Area Specific Plan streetscape requirements in the form of curb, gutter sidewalks, landscaping, street trees, and bio-treatment areas. The project will be required to dedicate approximately 16,000 square feet of right-of-way and improve the Montague Expressway frontage in conformance with the ultimate roadway design criteria per Santa Clara County. Pedestrian and bicycle circulation will also be provided to all sides of the building.

Along Piper Drive, a narrower four-foot clear sidewalk will provide access along the street and a larger 12-foot sidewalk will provide access to the commercial space. The two sidewalks are separated by landscaping and street trees with pass-thru connections. The sidewalk widens even further at the corner with Montague to provide an urban plaza. From this corner, the Montague frontage then transitions to a landscaped residential character with an eight-foot wide sidewalk, a 12-foot and 20-foot wide landscape planters and street trees.

Grading, Drainage and Stormwater

The project include some import of fill material and site grading to create the building pad elevation and positive drainage flow westerly towards the City's storm drain system in Piper Drive. Drainage will be channeled into the City's storm drain system after being treated by the on-site stormwater treatment system. The project includes bio-treatment areas along all sides of the building for stormwater treatment.

Utilities

The project will be served by City of Milpitas water and sewer services, and PG&E gas and electric services. The City has capacity to serve the project and does not anticipate service conflicts. The project will also be required to underground existing overhead electric wires along Piper Drive and Montague Expressway. New streetlights, consistent with the Transit Area design theme, will also be installed along Piper Drive and Montague Expressway. Pedestrian scale street lights will be installed along the two private streets.

The project will provide waste management services to the rear of the site. An enclosed trash compactor area will be provided and designed such that vehicles will pull off the private street and collect compacted trash, and recyclables.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. The project is consistent with the following findings:

Major Tentative Map Findings (Section XI-1-20.01)

1. *The tentative subdivision map is consistent with the Milpitas General Plan.*

The project site has a General Plan land use designation of Boulevard Very High Density Mixed Use. The intent of this designation is to provide high-density housing, retail and employment along Montague Expressway at a minimum density range of 41 units per acre, and a maximum density of 90 units per acre.

The Project is consistent with this finding because the proposed Project meets the intent of the Boulevard, High Very High Density Mixed Use designation by providing a mixed-use residential project along Montague Expressway with 68 dwelling units per acre and 8,100 square feet of commercial area. Further, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- ***2.a-G-2*** *Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.*

The proposed Project is consistent with this Principle because it includes a compact, mixed-use development that will serve the transit area, and provide commercial services to nearby residents.

- ***2.a 1-31*** *Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. 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 proposed Project is consistent with this policy because it include an attractive mixed-use building with 381 residential units in close proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements and is attractively designed including a public plaza at the corner of Piper Drive and Montague.

- ***2.a 1-32*** *Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.*

The proposed Project is consistent with this policy because it has been designed per the adopted design guidelines/requirements contained in the Transit Area Plan. Other than the two exceptions to the Plan, as previously mentioned in the staff report and discussed below, the project meets all guidelines and requirements of the Transit Area including building setbacks and height, Floor Area Ratio and density, parking, open space and landscaping. It also includes public street improvements consistent with the Transit Area cross-sections for Piper Drive and Montague, and meets the requirements for access and circulation.

Site Development Permit Findings (Section XI-10-57-03(F)(1))

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The Project is consistent with this finding because the site is designed as a single-mixed use building in an urban contemporary format consistent with the Transit Area Specific Plan. The design of the building, including the mass, scale and height of the structure, is typical of transit oriented development and includes a retail storefront along the street and intersection with residential units above. The building complements other approved and pending projects in the areas which all contribute to a vibrant urban transit district consistent with the vision of the Transit Area Specific Plan. Further, the building materials and large glass storefronts provide variation in texture and finish and lend themselves to a retail environment to encourage shopping and strolling while providing services to future residents and transit riders.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

The Project site is zoned MXD3, Mixed Use, Very High Density with a Transit Oriented Development (TOD) Overlay. The proposed residential and commercial uses are permitted in the zoning district. The purpose of the MXD3 zoning district is to provide areas for very high density housing and retail uses in a mixed-use format. The Project conforms to the zoning district because the proposed high density mixed-use project meets the intent for this type of project envisioned in this area.

The Project also conforms to the TOD Overlay by providing density of 68 units per acre, which is within the 41-75 units/acre range allowed by the TOD Overlay when combined with the MXD3 zoning district. The height of the building is also within the standards of the TOD Overlay, since five stories is proposed where up to 12-stories is allowed.

The project conforms to the development standards required in the MXD3 and TOD Overlay Districts. The table below demonstrates how the Project is consistent with these development standards.

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The Project requires a total of 634 parking spaces based on the table below:

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Total Provided		**634 Spaces**

The Project provides a total of 634 spaces to meet this requirement. A total of 622 spaces are located in the garage, 610 of which are provided to residents and guests. Two spaces are located on site, and a total of ten spaces are located along Piper Drive. Ten (10) parking spaces are proposed along Piper Drive to meet the requirement for the retail storefront space along the Piper Drive frontage. This is allowed through Section IX-10-53.13(A)(1) of the Zoning Code which allow non-residential parking to be located within 300 feet of the use that it serves, subject to a Conditional Use Permit. This parking will help to serve and contribute to the success of these retail spaces. This area will be signed for retail or limited term parking and will not be available to BART patrons.

3. *The project is consistent with the Milpitas General Plan.*

As discussed in detail above, the Project is consistent with the Milpitas General Plan.

4. *The project is consistent with the Transit Area Specific Plan.*

The Project is located with the Montague Corridor Sub-District of the Transit Area Specific Plan (TASP) area and is designated as Boulevard Very High Density Mixed Use and TOD Overlay which qualifies the site for increased density. The project is directly across the street from the BART Station. This designation is intended for commercial and residential mixed-use projects between 41-75 units per acre with allowances up to 90 units per acre. The TASP designation also includes a neighborhood retail designation on the corner of Montague and Piper Drive which requires a minimum of 5,000 square feet of retail. The Project conforms to the TASP designation because the proposed project, at 68 units per acre, falls within the required density range at this location; and, includes 8,100 square feet of commercial space along the ground floor at the corner of Piper Drive and Montague Expressway.

The applicant is requesting two exceptions to the Transit Area Specific Plan. The first exception is in regards to floor to ceiling height for retail or office commercial space. The applicant is proposing 14-feet where 18-feet is required for retail, and 15-feet is required for office. The second exception is in regards to block dimension. The applicant is proposing an approximate 650 block length along Montague Expressway where a maximum of 500 feet is required. These two exceptions require the approval of a Conditional Use Permit by the City Council and is discussed in detail below.

Further the Project is consistent with the following TASP Policies:

- *Policy 3.10: Maintain Montague Expressway and Great Mall Parkway/Capitol Avenue as regional arterials. Impediments to through traffic flow along arterial roadways will be minimized. Signalized intersections and at-grade crossings will be kept to a minimum, and retail and parking access will be off of the main travel lanes.*

The Project is consistent with this policy because it maintains Montague Expressway as a regional arterial and does not propose any impediments to traffic flow on Montague. It also takes all access to the parking and retail areas from the side streets and reduces turning movements from Montague.

- *Policy 4.1 (MON): High rise buildings are encouraged along Montague Expressway.*

The Project is consistent with this policy because it includes a five-story building along Montague.

- *Policy 4.2 (MON): New curb cuts and auto access onto Montague Expressway are strongly discouraged, unless specifically indicated on the Plan map.*

The Project is consistent with this policy because it does not propose any curb cuts or auto access from Montague into the Project site.

- *Policy 4.3 (MON): Parcels fronting Montague Expressway are permitted to contain residential, employment, or hotel uses.*

The Project is consistent with this Policy because it includes the permitted residential and commercial uses.

- *Policy 4.5 (MON): New development along Montague Expressway must dedicate land, such that a total of 79 feet from the roadway centerline is provided, to accommodate the future Montague Expressway widening project.*

The Project is consistent with this policy because it includes the dedication of land along the Montague frontage to account for the future Montague widening. The Project has been designed with this assumption.

Conditional Use Permit Findings (Section XI-10-57.04(F))

1. *The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare;*

The Project is consistent with this finding because the requested exceptions to the Transit Area Specific Plan require a Conditional Use Permit approval and the requested exceptions do not adversely affect the public health or safety. The exceptions are related to the overall design and functionality of the building, commercial spaces and pedestrian environments. The first exception is in regards to floor to ceiling height for retail or office commercial

space. The applicant is proposing 14-feet where 18-feet is required for retail, and 15-feet is required for office. The second exception is in regards to block dimension. The applicant is proposing an approximate 650 block length along Montague where a maximum of 500 feet is required. These exceptions are minor design deviations that do not affect the public health or safety. All construction will be completed in accordance to the California Building Code and the exceptions will not have any impact on public health and safety.

The applicant is proposing ten off-street parking spaces along Piper Drive to serve the commercial uses along this frontage. The project is consistent with Section IX-10-53.13(A)(1) of the Zoning Code which allows non-residential parking to be located within 300 feet of the use that it serves because the proposed parking along Piper Drive is located directly in front of the retail and office uses, within 50 feet of the use that is serves and will contribute to the success of these commercial locations. The parking will be designated for limited term parking only to encourage high turnover and rotating customer base for these businesses.

2. *The project is consistent with the Milpitas General Plan.*

As discussed in detail above, the project is consistent with the Milpitas General Plan.

3. *The project is consistent with the Milpitas Zoning Ordinance.*

As discussed in detail above, the project is consistent with the Milpitas Zoning Ordinance.

4. *The project is consistent with the Transit Area Specific Plan.*

As discussed in detail above, the project is consistent with the Milpitas Transit Area Specific Plan.

5. *The deviation from the Transit Area Specific Plan Standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development.*

The project is consistent with this finding because the deviations from the code will not deter the project from meeting the design intent of the Plan. The deviation for interior commercial ceiling height is a minor adjustment due to building code regulations and building design that does not affect the operation or function of those commercial spaces. The exterior architectural design will not be affected and the overall integrity of the building is maintained. The deviation from block size is necessary due to restricted access along Montague Expressway as building access is from the rear of the building. The overall massing of the building has been designed into components and will give visual appearance of building sections. Overall, these minor deviations do not compromise the integrity of the development.

6. *The deviation from the Transit Area Specific Plan Standard allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard.*

The project is consistent with this finding because the proposed utilization of ten on-street parking spaces for the commercial uses provide a benefit to both the operators of those spaces and the public for the use of parking in close proximity to commercial tenant entrances.

ENVIRONMENTAL REVIEW

The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). This project is included within the area evaluated as part of the Transit Area Specific Plan Environmental Impact Report (EIR), SCH#2006032091, which was certified by the City Council June 3, 2008. The project is covered under the scope of activities approved with that EIR. A finding is proposed that this project is within the program of the Transit Area Specific Plan EIR and no further action is required.

CEQA Finding

The proposed Project is covered under the scope of activities approved under the Transit Area Specific Plan (TASP) EIR, SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The TASP EIR included a program of activities including construction of up to 7,109 residential units within the TASP area. The proposed 381 residential units fall within this scope of development activity since the TASP area has not reached its full build out. The TASP area has been approved with approximately one-quarter of the amount of development assumed in the EIR development threshold. Further, the Project applicant has submitted an air quality assessment, greenhouse gas emissions analysis, a Phase I and II Environmental Site Assessment, a noise and vibration assessment and a traffic operations analysis to further show consistency with the TASP. Copies of these documents are on file with the Planning Division and fully incorporated herein by reference. These aforementioned studies do not indicate any Project impacts other than those already assumed in the TASP EIR. Mitigation measures required of projects covered under the TASP EIR are included as Conditions of Approval 28-36 as shown on Exhibit 1 to this Resolution. Based on the foregoing, the Planning Commission recommends the City Council finds that the proposed Project will not have additional environmental impacts beyond those identities in the TASP EIR, no additional environmental review is required, and no new or additional mitigation measures are required.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on May 2, 2014 (two Fridays before the meeting). In addition, 28 notices were sent to owners and occupants within 300 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CITY COUNCIL REVIEW

This project requires review by the City Council and is tentatively scheduled on the June 17 City Council agenda.

CONCLUSION

In conclusion, staff recommends the Planning Commission recommend this project for approval to the City Council. The project is consistent with the type of mixed-use development projects envisioned for the TASP. It is consistent with the General Plan, Transit Area Specific Plan and

Zoning Ordinance. The project is well designed and include public streetscape improvements that will further the design and development goals of the transit area by providing a vibrant mixed-use community directly across the street from the future Milpitas BART Station.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct a Public Hearing; and
2. Adopt Resolution 14-019 recommending approval to the City Council Major Vesting Tentative Map, MT13-0006, Site Development Permit, SD13-0012, and Conditional Use Permit, UP13-0011 for the construction of 381 apartment dwelling units, 8,100 square feet of commercial and office space and associated site improvements on 5.6 acres located at 765 Montague Expressway.

ATTACHMENTS

A: Resolution 14-019
B: Project Plans – Site Development Permit
C: Project Plans – Major Vesting Tentative Map