



# MILPITAS PLANNING COMMISSION STAFF REPORT

January 14, 2015

**APPLICATION:** **Development Agreement No. DA15-0001** – Adoption of an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.

**RECOMMENDATION:** **Staff recommends that the Planning Commission: Conduct the public hearing and Adopt Resolution No. 15-003 recommending the City Council adopt an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.**

**LOCATION:**  
Address/APN: 1200 Piper Drive and 765 Montague Expressway  
086-32-049; -051;-052 -054; -055; -056; -057  
086-32-029; -026  
Area of City: Transit Area Specific Plan – Piper/Montague Subdistrict

**PEOPLE:**  
Project Applicant: Stephen E. Schott, Vice President, SCS Development  
Consultant(s): NA  
Property/Business Owner: SCS Development Company, 404 Saratoga Ave Ste 100, Saratoga, CA 95050  
  
Project Planner: Adam Petersen, Senior Planner

**LAND USE:**  
General Plan Designation: Boulevard Very High Density Mixed Use (BVHDMU)  
Multi-Family Very High Density (VHD)  
Multi-Family High Density (MFH)  
Zoning District: Very High Density Mixed Use District (MXD3)  
Multiple Family Very High Density District (R4)  
Multiple Family-Family District (R3)  
Overlay District: Transit Oriented Development (TOD) and Site and Architectural Overlay (S)

**ENVIRONMENTAL:** Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the project is exempt from CEQA since it does not have the potential to significantly affect the environment. It is further exempt pursuant to CEQA Guidelines Section 15183(a), a project

consistent with a Specific Plan for which an environmental impact report has been certified. Furthermore, pursuant to Section 15162 of the CEQA Guidelines, no further environmental documentation is required. An EIR was certified for this previously approved project, including the development of the high rise.

**BACKGROUND**

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The Milpitas City Council adopted Resolution No. 8132 on November 11, 2011 approving the Citation I project. The Citation I project consisted of up to 732 dwelling units, public parks, streets and infrastructure improvements located at 1200 Piper Drive. Of these 732 units, 638 were allocated to two wrap buildings, which comprise the Amalfi I and Amalfi II development. Amalfi I, consisting of 378 apartment units is currently under construction. Amalfi II consists of 260 apartments, but construction has not commenced for this project. Additionally, 94 townhomes are under construction as part of the Citation I project approvals, but the 94 townhomes will not be a part of the development agreement.

On June 17, 2014, the City Council adopted Resolution No. 8382 approving the Citation II project. That project consisted of 381 apartments and 8,100 square feet of commercial and office space that fronts Montague Expressway. Map 1 illustrates the location of these two projects.

The projects are comprised of three buildings with 1,019 dwelling units on approximately 12.6 acres. The sites were previously improved with the existing industrial office buildings, outdoor storage areas, utilities and landscaping. The project site is located along Montague Expressway, tangential to the eastern property line of the Great Mall. Commercial uses are proposed in the Edge project.

The site is accessed by Montague Expressway, the proposed Piper Drive, and a public street from South Milpitas Boulevard.

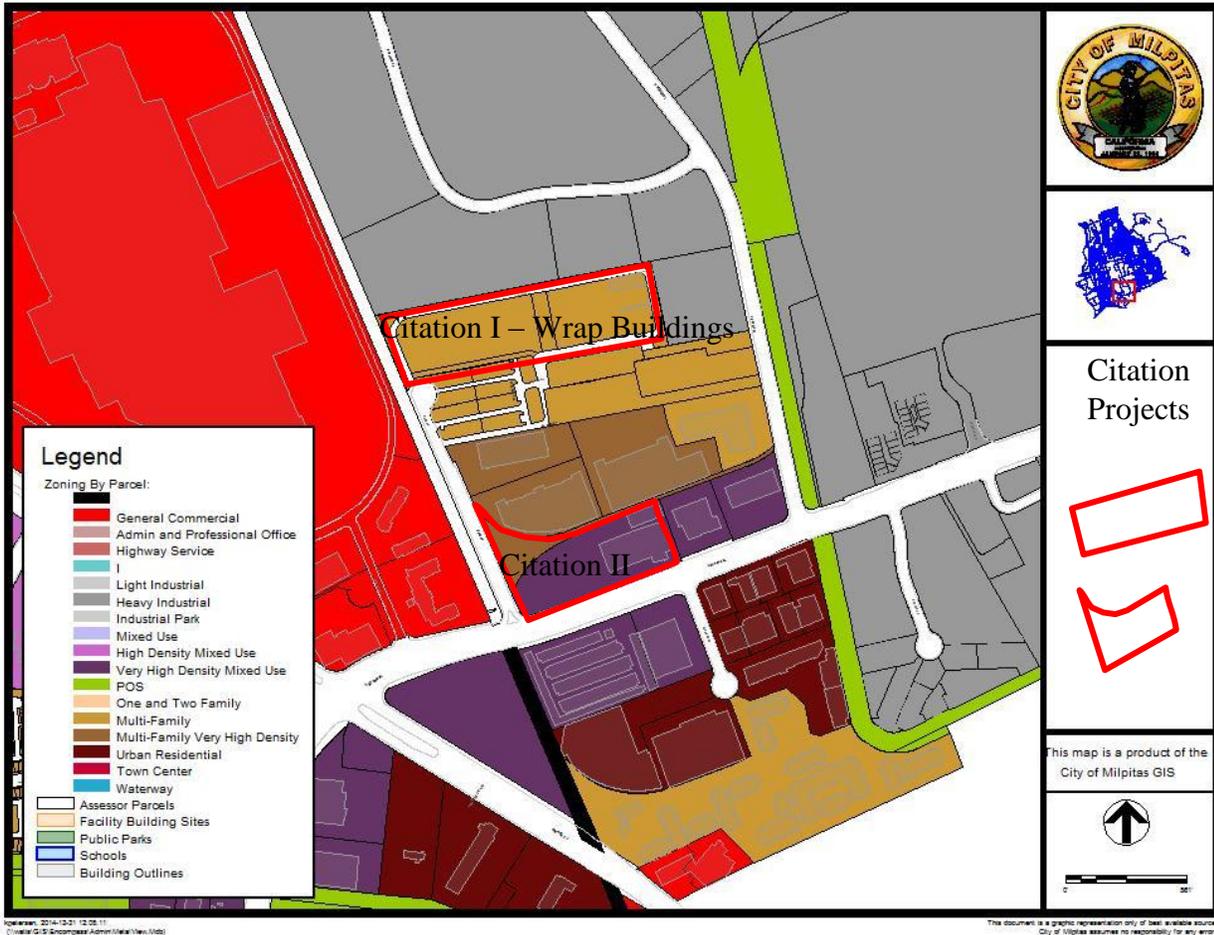
The following table summarizes the approved development projects. As of the date this staff report was prepared, Amalfi I is under construction. Construction has not commenced for Amalfi II and the Edge.

**Table 1:**  
**Summary Project Information**

<b>Use/Standards</b>	<b>Citation I</b>	<b>Citation II</b>
	<b>Amalfi I and Amalfi II</b>	<b>The Edge</b>
Acres	7.0 acres	5.6 acres
Commercial / Retail s.f.	0	8,100 sq ft
Residential Units	638 apartments	381 apartments
Parking Required	1,207 spaces	634 spaces
Parking Provided	1,260	634 spaces
Residential Density	45 dwelling units per acre	68 dwelling units per acre
Commercial FAR	NA	0.03

# Map 1 Project Location

## Zoning Map



## PROJECT DESCRIPTION AND ANALYSIS

The applicant is requesting a five year Development Agreement for the Amalfi I, Amalfi II and the Edge projects. The agreement may be extended another five years, if both parties mutually agree to the extension. The Development Agreement also proposes a reduction in Transit Area Specific Plan (TASP) fees for the subject development projects. Projects in the TASP are currently required to pay \$32,781 per unit at the time of building permit issuance. The applicant is requesting that the development agreement lock in a TASP fee of \$29,012 per unit due at the certificate of occupancy. This fee would adjust after five years.

The reduced TASP fees have certain benefits to the applicant, and the City will benefit from the Citation projects. The City has received an investment of approximately \$250,000,000 from the project applicant for these projects including approximately \$10,000,000 in up front public infrastructure cost that will benefit other developments. Further, the applicant has built these projects at a higher density than required with more commercial and retail square footage than what is required by the City's Zoning Code and TASP. As a result of the oversized commercial component, the City will benefit from increased economic development opportunities, employment and tax generating uses. The reduced TASP fees would allow for the appropriate planning for finance, construction and marketing of a complex and expensive project. These components would increase the likelihood of the project being constructed as approved. Therefore, the City and the applicant will benefit from the reduced TASP fees.

The project will however result in less TASP fees collected than under the current fee. Table 2 provides a summary of the TASP fees collected for the project.

**Table 2:**  
**TASP Fee Summary**

	Amalfi I	Amalfi II	The Edge	<b>Total</b>
TASP Fee Current (\$32,781 per unit)	\$ 12,391,218	\$ 8,523,060	\$ 12,489,561	
TASP Fee Requested (\$29,012 per unit)	\$ 10,966,536	\$ 7,543,120	\$ 11,053,572	
Difference	\$ 1,424,682	\$ 979,940	\$ 1,435,989	<b>-\$ 3,840,611</b>

The result of the reduced TASP fees is that the City would not collect approximately \$3.8 million, and the collection of those fees would be delayed from building permit issuance to certificate of occupancy. However, the applicant has provided the City with public benefits from the project. The applicant has constructed approximately \$10 million in public infrastructure improvements for the project as well Milpitas Station and Barry Swenson. These improvements and funding was committed as a result of a three-party cost sharing agreement. The infrastructure constructed will serve this project and others in the future.

The Edge project is the first development in the TASP to include a commercial component. The reduced TASP fees are required to support the likelihood of a successful commercial aspect to

the project. Further, the development agreement conditions the applicant to construct the Edge project prior to the Amalfi II project. This will benefit the City of Milpitas because early construction of the 8,100 square feet of commercial development will generate revenue for the City up front rather than delaying it to a later date.

## **FINDINGS**

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California Government Code Section 65864 et seq. sets forth the general requirements for approval of development agreements. Further, the City Council adopted Resolution No. 6642 on May 6, 1997 establishing procedures and requirements for the consideration of development agreements under California Government Code Section 65864 et seq. Pursuant to Resolution No. 6642, certain findings are required by the City Council prior to approval of any development agreement.

*1. The Development Agreement is consistent with the General Plan.*

The proposed development agreement is consistent with the Milpitas General Plan and other applicable plans, policies and regulations of the City currently in effect. The General Plan and Transit Area Specific Plan land use designation for the area that is subject to the agreement is Boulevard Very High Density Mixed Use, Multi-Family Very High Density, and Multi-Family High Density and the proposed development of the subject project is consistent with the General Plan and Transit Area Specific Plan. As discussed in detail in the proposed agreement, the Project involves development of the “Amalfi I Building” consisting of up to three hundred and seventy-eight (378) multi-family residential units and “Amalfi II Building” consisting of up to two hundred sixty (260) multi-family residential units (collectively “Citation I Project”), and up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements (the “Edge Project” or “Citation II Project”) (collectively, all the “Project”).

The Project is also consistent with the following General Plan Guiding Principles and Policies:

- **Policy 2.a-G-7** – When considering development proposals, seek “community benefit”, such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.
- **Policy 2.d-G-1** – Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.
- **Policy 2.d-I-1** – Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

*2. The Development is consistent with the Transit Area Specific Plan.*

The proposed Development is consistent with the Transit Area Specific Plan because:

- a. Development of the Project should be encouraged because it will help meet important economic, social, environmental and planning goals of the City, including but not limited to locating housing near jobs to reduce commutes for City residents, redeveloping underutilized property near transit investment with housing and jobs so as to encourage use of transit, providing for an extraordinary contribution towards housing and jobs in the City.
- b. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the further reasons set forth in the accompanying staff reports and Agreement;
- c. Developer will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for housing in the City, from which the public will benefit, as set forth in more detail in the accompanying staff report and Agreement and (ii) Developer has made commitments to a very high standard of quality for the Project and has agreed to development limitations beyond that required by the existing laws, as set forth in the Agreement and Development Approvals; and
- d. Development of the Project will make a substantial contribution to the economic development of the City of Milpitas in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

## **ENVIRONMENTAL REVIEW**

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The proposed development agreement is exempt from the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15061(b)(3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The development agreement will not expand the range or intensity of uses permitted on the subject properties. The development agreement does not authorize any construction and will not result in any physical change in the environment. Therefore, it can be seen with certainty that the project will not have an effect on the environment.

The project is further exempt from environmental review pursuant to CEQA Section 15183(a). The development of Amalfi I, Amalfi II, and the Edge projects was previously analyzed in the Transit Area Specific Plan Environmental Impact Report (SCH 2006032091). The EIR analyzed all impacts associated with the development of these properties and anticipated the intensity of this development. The development agreement does not increase the intensity beyond that previously analyzed in the certified EIR. Further, the projects, as approved under Resolution No. 8132 and 8382 were found to be consistent with the Transit Area Specific Plan. Therefore, the proposed agreement is exempt from CEQA review because it can be seen with certainty, there is no possibility it will have a significant adverse on the environment and the project is consistent with a specific plan for which an EIR was certified.

## **PUBLIC COMMENT/OUTREACH**

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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 regarding the project.

## **CITY COUNCIL REVIEW**

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This project requires review by the City Council and is tentatively scheduled on the February 3, 2015 City Council agenda.

## **CONCLUSION**

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The development agreement as drafted includes substantial benefits to the developer and the City. The reduced TASP fees would allow for the appropriate planning for finance, construction and marketing of a complex and expensive project. Therefore, staff recommends that the Planning Commission adopt Resolution 15-003, recommending that the City Council authorize execution of the Citation I and Citation II Development Agreement, subject to the attached resolution and development agreement.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments; and
2. Close the public hearing; and
3. Adopt Resolution No. 15-003 recommending the City Council adopt an ordinance to authorize the execution of the Citation I and Citation II Development Agreement, subject to the findings above.

## **ATTACHMENTS**

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A: Resolution No.15-003

Exhibit A: Draft Ordinance

Exhibit to Draft Ordinance: Development Agreement

Exhibit to Development Agreement: Legal Descriptions and Plat Maps