



MEMORANDUM

DATE: March 19, 2015

TO: Shaunn Mendrin, AICP, Senior Planner, City of Milpitas

FROM: Judith H. Malamut, AICP, Principal, Amy Paulsen, AICP, Associate/Project Manager and Nicole Catalano, Assistant Planner

SUBJECT: California Environmental Quality Act (CEQA) Exemption Memo for the 450 Montague Project, Milpitas, California

This memorandum and attachments provide a description of the 450 Montague Project (project) and substantial evidence to confirm that the potential project is exempt from further environmental analysis per Section 15168(c) of the California Environmental Quality Act (CEQA). The approximately 10.5-acre project site is located at 400 and 450 Montague Expressway in Milpitas, Santa Clara County, at the corner of Montague Expressway and East Capitol Avenue. The proposed project would involve the demolition of all existing structures and associated pavements on the site and grading and construction of 489 residential units.

Attachment A provides a project description of the 450 Montague Project (project). This attachment includes a description of the project, location, existing site characteristics, the proposed project and required approvals and entitlements. The City of Milpitas (City) is the CEQA lead agency for the project.

The responses in an environmental checklist (Attachment B) prepared for the project demonstrate for each CEQA topic that because the proposed project was evaluated and impacts were mitigated to the degree possible as part of the Milpitas Transit Area Specific Plan (Specific Plan) Project and EIR, no additional CEQA review is required. CEQA Guidelines 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR. The responses contained in the checklist confirm that the project was considered within the scope of the evaluation within the TASP EIR and no new impacts were identified and no new mitigation measures are required.

The City can approve the 450 Montague project as being within the scope of the Specific Plan covered by its EIR and no new environmental document for the purposes of CEQA clearance is required. Pursuant to Public Resources Code section 21166 and CEQA Guideline 15168, the 450 Montague project is exempt from further review under CEQA. This analysis finds that a Notice of Exemption may be prepared for the project and filed with the Santa Clara County Clerk.

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ATTACHMENT A
PROJECT DESCRIPTION

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PROJECT DESCRIPTION

The following describes the 450 Montague Project (project). This section includes a description of the project, location, existing site characteristics, the proposed project and required approvals and entitlements. The City of Milpitas (City) is the CEQA lead agency for the project.

A. PROJECT SITE

The following section describes the location and site characteristics and provides a brief overview of the existing land uses within and in the vicinity of the site.

1. Location

The approximately 10.5-acre project site is located at 400 and 450 Montague Expressway in Milpitas, Santa Clara County, at the corner of Montague Expressway and East Capitol Avenue. The irregularly-shaped site is bounded by Montague Expressway to the west, Capitol Expressway to the north, Penitencia Creek Channel to the south, and office development to the east. Figure 1 shows the site's regional and local context.

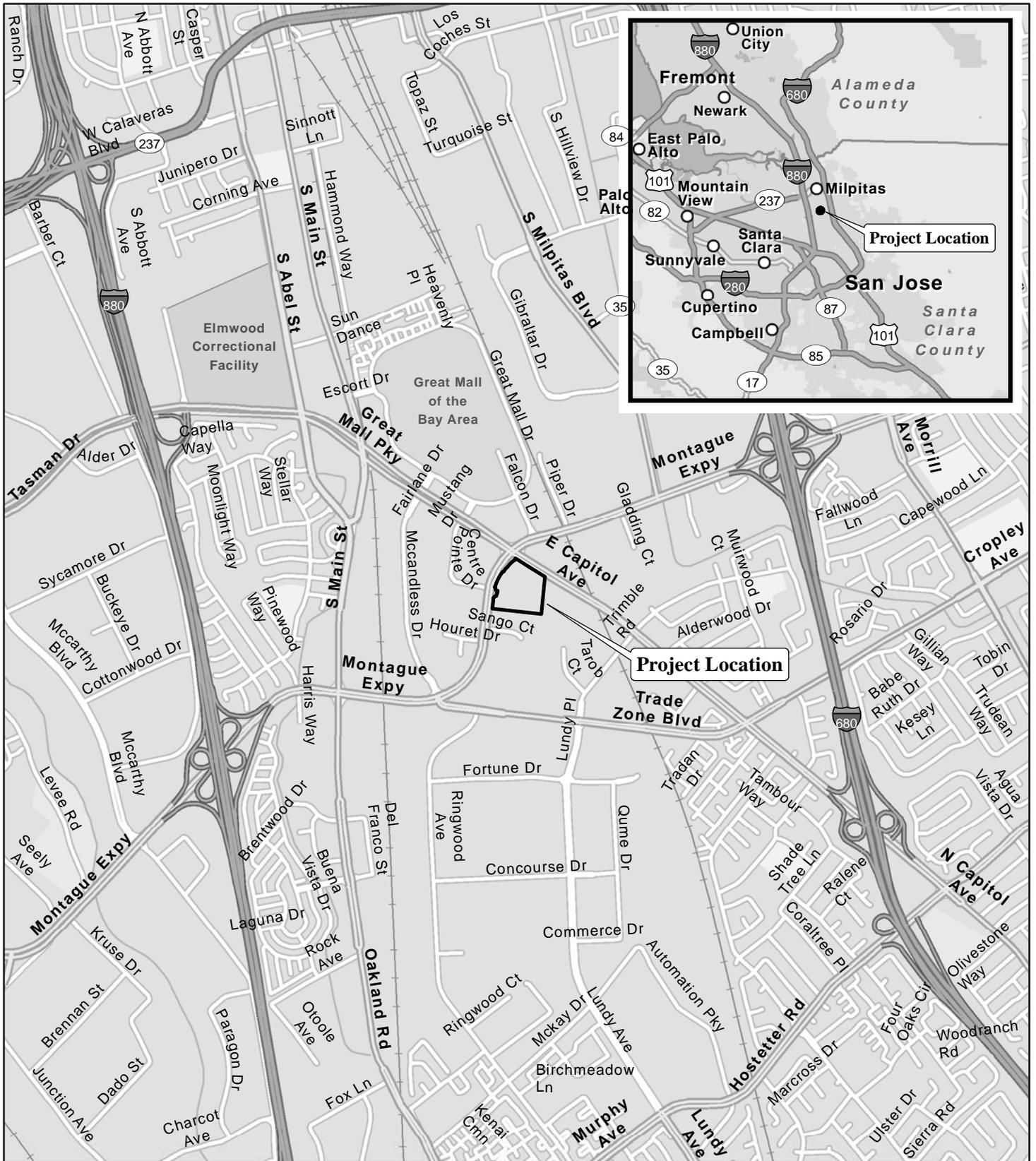
Regional vehicular access to the project site is provided by Interstate 80 (I-880), located approximately 3 miles west of the site and by Interstate 680 (I-680), located approximately 1.5 miles east of the site. The future Bay Area Rapid Transit (BART) Milpitas station is currently under construction and will be co-located with the Montague VTA light rail station, approximately 0.30 miles northeast of the project site.

2. Site Characteristics and Current Site Conditions

The generally level project site (Assessor's Parcel Number [APN] 086-37-019, 086-37-020, 086-37-004, and 086-37-021) is located in the southern, light-industrial land use corridor of Milpitas. Approximately 44 percent of the site is currently covered with impervious surfaces, consisting of buildings and paved parking lots, driveways, and walkways. The remainder of the site (approximately 56 percent) consists of pervious vegetated areas.¹

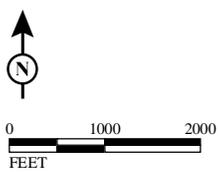
Two existing office buildings, and their associated surface parking lots, are located on the western portion of the project site. Both structures are one-story in height and are accessible via Montague Expressway. A median island separates the two driveway approaches to the two buildings from Montague Expressway. A row of ornamental trees and other vegetation extends between the two structures. In addition, an electric utility box is also located in the vegetated area between the two properties. The northern building (located at 450 Montague Expressway) is approximately 30,000 square feet and the southern building (located at 400 Montague Expressway) is approximately 40,000 square feet in size.

¹ Carlson, Barbee & Gibson, Inc., 2014. *Stormwater C3 Control Plan*. December 12.



LSA

FIGURE 1



SOURCE: ESRI StreetMap North America (2012).

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450 Montague Project
Project Location and Regional Vicinity Map

The eastern and northern portion of the project site is largely undeveloped, including the area directly east of the two office buildings, extending north to the corner of Montague Expressway and East Capitol Avenue. This undeveloped area includes grass vegetation with a few shrubs and trees. An unused driveway approach is located near the northeastern edge of the project site along East Capitol Avenue and is surfaced with gravel and rock.

Mature street trees and landscaped areas border the site on the western edge of the project site near Montague Expressway. Approximately 45 trees (which are greater than 15 inches in diameter at breast height) are located within, or immediately adjacent to, the site. A vegetated channel of the Penitencia Creek is located directly south of the project site. Water was flowing in the creek during the site visit on January 14, 2015. A high-pressure gas transmission line is located south of the Penitencia Creek channel.

There are no existing sidewalks along the portions of Montague Expressway and East Capitol Avenue that front the project site.

3. Existing General Plan and Zoning

The project site is currently designated as Boulevard Very High Density Mixed Use and Urban Residential in the City's General Plan. The site is zoned as Mixed Use Very High Density (MXD-3) and Urban Residential (R5). Permitted uses in the Boulevard Very High Density Mixed Use designation include residential, office, commercial and medical. The project would require a Site Development Permit, a Conditional Use Permit and a Major Tentative Map entitlement.

4. Milpitas Transit Area Specific Plan

In 2008, the City of Milpitas adopted the Milpitas Transit Area Specific Plan² (Specific Plan) for the area in the vicinity of the future BART and current VTA station. The goal of the Specific Plan is to transform the area into a high-density, mixed-use neighborhood that meets the demand for housing, offices and shopping and that is within walking distance to the future Milpitas BART station. Environmental impacts associated with implementation of the Specific Plan were evaluated in the Milpitas Transit Area Specific Plan Draft Environmental Impact Report (TASP EIR).³ A Final EIR was released in 2008. The project site was included within the area evaluated within the TASP EIR.

The Specific Plan identifies subdistricts within the Specific Plan area, each having their own policies related to street design, land use, building height, setbacks, parks and building design. The project site is located within two overlapping subdistricts within the Specific Plan: the Montague Corridor Subdistrict and the Trade Zone/Montague Subdistrict.

As noted above, the TASP EIR evaluated the environmental impacts associated with implementation of the Specific Plan. Table 1 shows the housing units and population assumptions evaluated within the TASP EIR and also shows existing and proposed housing development.

² Dyett & Bhatia, 2008. *Milpitas Transit Area Specific Plan*, June, (amended December 2011).

³ Dyett & Bhatia, 2007. *Draft Environmental Report, Milpitas Transit Area Specific Plan*, October.

Table 1: Existing and Proposed Housing Units and Population with the Specific Plan Area

	Evaluated Within The TASP EIR	Approved Units	Under Construction	450 Montague Project	Remaining Development Available
Housing Units	7,109 ^a	2,122	1,548	489	2,950
Population	17,915 ^a	5,348 ^b	3,901 ^b	1,233 ^b	7,443

^a Milpitas, City of, 2008. *Final Transit Area Specific Plan EIR*.

^b Estimated population associated with approved units, under construction units, and the proposed project was determined by using the residents per unit evaluated within the TASP EIR (17,915 residents / 7,109 units = 2.52 residents per unit).

Source: LSA Associates, Inc., 2015.

5. Surrounding Land Uses

The project site is located within a light industrial land use corridor of Milpitas that is predominantly developed with commercial office parks and other buildings for industrial uses. The project site is in close proximity to the Great Mall shopping center in Milpitas, located approximately 0.5 miles northwest of the project site. A Heald College campus and a Marriott Courtyard hotel are also located directly northwest of the project site. Commercial office uses associated with Centerpointe Drive are located directly west of the project site on the other side of Montague Expressway, and a combination of office and light industrial uses surround the project site to the east, south and northeast.

B. PROPOSED PROJECT

This section provides a description of the proposed project as identified in the materials provided by the project applicant that are dated October 17, 2014, and December 15, 2014. The proposed project would involve the demolition of all existing structures and associated pavements on the site and grading and construction of 489 residential units. Figure 2 depicts the proposed conceptual site plan for the project site, and Figures 3a and 3b provide representative conceptual elevations of the project. The proposed project components are described in detail below.

1. Residential Development

The proposed project would develop 489 residential units. The project would feature a combination of two different building types: one multi-story building that features 351 podium flats (apartment units) and 17 individual multi-story buildings that feature a total of 138 stacked flats (townhome units). The podium building (Building 1) would front on East Capitol Avenue and Montague Expressway, with five levels of rental residential units above two levels of subterranean parking. Types of units include studio units (690 square feet), one-bedroom units (719 to 1,083 square feet) and two-bedroom units (1,029 to 1,391 square feet). The ground floor of the podium building would contain a 1,330-square-foot leasing lobby, a 725-square-foot sky deck, and a 6,022-square-foot, two-story indoor amenity.

The project would also include the development of 17 multi-story buildings that include 138 for-sale townhomes. The townhomes (Buildings 2 through 18) would vary in size from 1,057 to 1,779 square feet and would include two- and three-bedroom units. The interior of the building configuration would be varied with 3-plex, 6-plex and 9-plex structures. Building heights for the stacked townhome units would reach four stories plus a roof, extending no more than 45 feet in height. Each townhome would be provided a two-car, above-ground garage.

Building heights along East Capitol Avenue would reach 5.5 stories, and building heights along Montague Expressway would range from 3 stories to 5.5 stories.

In addition to the residential development, the project would build two new driveways, two private roads, landscaped paseos, parks, drive aisles, open space improvements, and improvements to public sidewalks and roadways.

The 450 Montague Project would develop in the lower range of the density and intensity standards than what was assumed in the TASP EIR. The Specific Plan allows a density range from 41 to 75 dwelling units per acre and the project proposes a density of 47 dwelling units per acre. In addition, TASP development policies allow the construction of buildings up to 12 stories in height. The proposed project proposes development that will not exceed 5.5 stories in height. Impervious surface area would not exceed 70 percent. Front yard setbacks would conform to the City's standards: 45-foot landscape setback from the curb on Montague Expressway, plus 15- to 20- foot setback from back of sidewalk; 24-foot planting strips; and 10-foot sidewalks for units facing East Capitol Avenue. Other street facing yards would have 12- to 14-foot setback. Side yard setbacks between buildings would average approximately 20 feet. The Penitencia Creek setback would start at 25 feet from the top of the creek with an additional 18-foot setback to buildings.

2. Open Space and Landscaping

The proposed project would include approximately 86,648 square feet (approximately 1.99 acres) of open space on the site, including two interior courtyards and two interior parks. The majority of the units would have private open space in the form of balconies. However, 16 percent of the podium apartment units would not have balconies (mostly studio and one-bedroom units) due to overall unit size and proximity to noise from a major arterial. The podium building would provide additional open space via two courtyards and a sky deck. There would be two parks (Park A and Park B) within the development, totaling 1.48 acres that would serve as open space and transition areas between the housing types. The project would include two trails for future residents. One trail (Park B extension) would be located between Building 14 and Building 15 and would connect Park B to Linear Park and other local trails and parks in the area. Another trail (Linear Park) would include a 0.49-acre linear park adjacent and parallel to Penitencia Creek on the southern boundary of the project site. In addition, the proposed project would install a decomposed granite trail over the existing maintenance road along the creek in efforts to support the development of public trails along Lower Penitencia Creek.

Approximately 8.0 acres (70 percent) of the project site would be covered with impervious surface and about 3.5 acres (30 percent) would be covered with landscaped areas including lawns, shrubs, and trees. There are 45 protected trees on and immediately bordering the project site, all of which would be removed with development of the proposed project and would be replaced according to City standards.⁴ Approximately 324 new trees would be planted along existing public streets and within the project site. Landscaping would be provided throughout the site, including planting strips along public roadways.

⁴ Neck of the Woods Tree Service. 2014. *Arborist Report for 400 and 450 Montague Expressway*. October 12.



FIGURE 2

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SOURCE: KTG GROUP, INC., JANUARY 23, 2015

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450 Montague Project
Conceptual Site Plan



View of the Building 1 (Podium) apartments from East Capitol Avenue

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FIGURE 3a



View of the Townhouses from Internal Road

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FIGURE 3b

Sidewalks would be constructed on the perimeter of the project site, along Montague Expressway, East Capitol Avenue, the southern boundary of the site by Penitencia Creek (an 8-foot sidewalk is proposed in this location), and the eastern boundary of the project site by Street B. A pedestrian connection would be developed along Penitencia Creek and would terminate at the boundary of the project site to allow future extension by the City.

3. Access, Circulation and Parking

All existing driveway approaches and median islands would be removed. Two new driveways would be constructed to provide access to the development from Montague Expressway and East Capitol Avenue. In addition, two new internal private roads would be built within the development (Street A and Street B) as shown on Figure 2. Street A would be accessible directly from Montague Expressway and Street B would be accessible directly from East Capitol Avenue via the new driveways. Street A would intersect the stacked flats and terminate at its intersection with Street B. The two new streets would vary between 26 and 40 feet in width. Vehicular access to each home in the stacked flats would be provided by 10 private drive aisles.

The two new driveways would both be right-turn only and would have one inbound and one outbound lane. The first driveway would be located on Montague Expressway that would prohibit turns from accessing the eastbound left turn pocket on Montague Expressway at Great Mall Parkway/Capitol Avenue. The second driveway would be a temporary driveway and would be located on East Capitol Avenue, approximately 630 feet south of the Montague Expressway/Capitol Avenue intersection. Access from this driveway to the existing southbound left turn pocket on Capitol Avenue at Montague Station would also be prohibited. All project traffic destined for westbound Montague Expressway would most likely make u-turns at the future intersection of Capitol Avenue/Milpitas Avenue extension, proceed northbound on Capitol Avenue, and turn left at the intersection of Montague Expressway/Great Mall Parkway/Capitol Avenue. A future roadway is planned just south of the project site, which would link the proposed project to the future Capitol Avenue/Milpitas Boulevard extension traffic signal. All movements (left and right turn) would be permitted to and from the project site onto Capitol Avenue at the future location, which is not scheduled to be completed until the properties directly south of the proposed project are redeveloped.

A two-level subterranean parking garage would be located below the podium apartment building. The garage height will vary above grade at some points due to the topography and water table, but would be mostly at grade at major entry points. Entrance into the parking garage would be made accessible via Street B and also by Drive Aisle 1 between Building 2 and Building 3. Ramps to the lower level would be located near these entry points. There is no direct access from Montague Expressway or East Capitol Avenue to the parking garage.

A total of 839 parking spaces will be provided for the entire development, including a total of 111 guest parking spaces. The podium apartment building would have 512 parking spaces in the form of standard, compact and tandem parking. The stacked flats would have 327 parking spaces, mostly in the form of garages and minimal surface parking. A total of 127 short-term and long-term bicycle parking spaces would be provided, a majority of which are for the future residents of the podium flats.

4. Utilities and Infrastructure

The project site is located in an urban area and is currently served by existing utilities, including: water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. The

majority of existing utilities within the boundary of the project site would be removed. Existing and proposed utility connections are discussed below.

- a. Water.** Water service in the City of Milpitas is provided by the Santa Clara County Water District (SCVWD). Existing water mains within the vicinity of the site are located on Montague Expressway and East Capitol Avenue. One water line would be relocated, from Montague Expressway to the center of the travel lane on Montague Expressway. The applicant proposes to secure an easement from Santa Clara County for the installation and future maintenance of the relocated water line within the Montague Expressway right-of-way. In addition, two existing fire hydrants would also be relocated.
- b. Wastewater.** The San José/Santa Clara Water Pollution Control Plant (WPCP) provides wastewater treatment for Milpitas. The City of Milpitas maintains existing sanitary sewer lines within the vicinity of the site. Residential units built as part of the proposed project would connect directly to these lines, which are located on Montague Expressway and East Capitol Avenue.
- c. Stormwater.** The Santa Clara Valley Water District owns and maintains most of the storm-water infrastructure within the City of Milpitas, including the project site. Existing storm drainage infrastructure surrounding the site includes two principle drainage areas:

 - Drainage Area 'A': Approximately 3.5 acres of the northern portion of the project site will discharge into the existing storm drain line in Montague Expressway which ultimately flows through an existing outfall into Penitencia Creek. Water discharging from the project site will be treated by a combination of bioretention, raised planters, and media filtration before entering the storm drain system.
 - Drainage Area 'B': Approximately 8.0 acres of the southern portion of the project site will discharge into the existing storm drain stub on the project site, which ultimately flows through an existing outfall into Penitencia Creek. Water discharging from the project site will be treated by a combination of bioretention and media filtration before entering the storm drain system.

In addition, bioretention areas will be incorporated into the landscape design to provide appropriate vegetation and water quality treatment, including in open spaces, street frontages, and paseos. On site drainage has been designed consistent with the C3 requirements for Low Impact Development and Special Project Categories. All walkways within the open space area of the development will be sloped to drain onto the surrounding landscaping.

This project would extend the existing recycled water main in Centre Pointe Drive to the project site to provide recycled water for irrigation.

- d. Electricity and Natural Gas.** Electricity and natural gas services to the site are provided by Pacific Gas and Electric Company (PG&E). Existing underground utility connections and gas mains provide electricity and gas to the project site. The proposed project would connect to these existing lines and any new electrical lines would be installed underground.

To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen's 2013 standard building measures for residential buildings and Title 24 requirements.

C. APPROVALS/PERMITS

The following approvals and permits would be required for the project:

- Site Development Permits
- Conditional Use Permits
- Major Tentative Map Permits
- Demolition Permits
- Building Permits
- Off-Site (Encroachment) Permits
- Tree Removal Permits

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ATTACHMENT B

**PROGRAM EIR CHECKLIST
PURSUANT TO CEQA GUIDELINE 15168**

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PROGRAM EIR CHECKLIST PURSUANT TO CEQA GUIDELINE 15168

CEQA Guidelines 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR. This checklist confirms that the 450 Montague Project is within the scope of the Transit Area Specific Plan EIR (TASP EIR) and will have no effects and no new mitigation measures are required, and as such, the City can approve the 450 Montague project as being within the scope of the TASP covered by its EIR and no new environmental document is required. Pursuant to Public Resources Code section 21166 and CEQA Guideline 15168, the 450 Montague project is exempt from further review under CEQA.

ENVIRONMENTAL CHECKLIST

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

As described in more detail in the project description (Attachment A), the 10.5-acre site currently includes two vacant one-story light industrial buildings, paved driveways and parking areas, an undeveloped area, and trees and landscaping. The proposed project would involve: (1) the demolition of all existing structures; (2) the removal of existing pavement, landscaping and trees; (3) the construction of 18 buildings, housing 489 residential townhomes and apartment units; and (4) the installation of parks, landscaping, trees, and other site improvements. The proposed buildings would be between three to five-and-a-half stories along Montague Expressway.

The project site (400/450 Montague Expressway) is located within two overlapping subdistricts identified in the Specific Plan: the Montague Corridor Subdistrict and the Trade Zone/Montague Subdistrict. Specific policies that apply to each district are outlined further below and would be applicable to the proposed project.

As noted in the TASP EIR, the Specific Plan will enhance the visual and aesthetic character of the planning area by incorporating specific development standards to ensure that impacts to visual resources are less than significant. These development standards and design guidelines are detailed in Section 5 of the Specific Plan and include policies related to street design, land use, building height, setbacks, parks and building design in order to create a unique character for each subdistrict within the Specific Plan area.

The primary potentially significant impact to scenic resources identified in the TASP EIR was the potential for 12- to 24-story buildings along Montague Expressway to block scenic views of the eastern foothills (Impact 3.2-1). The proposed project would include buildings that would be between three to five-and-a-half stories along Montague Expressway, which is significantly shorter than what was assumed in the TASP EIR (12- to 24-story buildings). Additionally, given the varied heights of the proposed structures on the project site, intermittent views of the hills would still be available from the site. Therefore, the proposed project would have a less severe effect on scenic views of the foothills than was identified in the TASP EIR.

The TASP EIR determined that Specific Plan policies related to aesthetics ensure that impacts are less than significant. The design style and materials proposed for the 450 Montague project are consistent with policies of the Specific Plan.

The TASP EIR also addressed the loss of mature trees that serve as visual or scenic resource in the area, specifically on McCandless Drive. The proposed project is not located on or near McCandless Drive and, as such, would have no impact on the mature trees that exist on McCandless Drive. Other than the scenic trees on McCandless Drive, there are no scenic resources located within the Planning area.¹

The project would involve removal of all existing trees on the site (including 45 trees that are 15 inches or more in diameter as measured at breast height). Any tree removal on the project site would be conducted in compliance with the City ordinance which requires a tree removal permit for the removal of any protected tree and compensation for lost trees as may be requested by the City. The proposed project includes the planting of approximately 314 trees, which is significantly more than the number of trees currently on the project site.

The TASP EIR found that there are potential significant impacts resulting from the introduction of new light and glare in the area (Impact 3.2-2), but concludes that Specific Plan Development Standards related to lighting will minimize light and glare impacts. The proposed project will not cause any new light and glare impacts.

¹ Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008.

The 450 Montague project is generally consistent with the type of development analyzed in the TASP EIR, it reduces the height of the buildings from what was assumed in the TASP EIR, it is consistent with the Specific Plan policies relating to aesthetics, and it would greatly increase the number of trees on the property and within the area. As such, there is no new impact on visual and aesthetic resources.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES TO REDUCE THE IMPACT

Midtown Plan Policies

- *Policy 6.13: Require the undergrounding of new utilities.*
- *Policy 6.14: Prioritize the undergoing of existing above ground facilities within the Midtown Area for the use of PG&E Rural 20A money. Consider using other financial resources to complete the undergoing of utilities, as necessary.*

Specific Plan Development Standards

- Utilities shall be underground or in subsurface conduits and accessible.

Specific Plan Policies

These policies apply specifically to the Montague Corridor Subdistrict:

- *Policy 4.4: A 40 foot wide, landscaped setback is required from the future right of way line of Montague Expressway. A landscaped setback creates a strong attractive image for the Transit Area, offers an attractive view to residents or employees in the buildings, and provides a buffer from the heavy traffic volumes and automobile exhaust. The setback will contain a double row of trees and a continuous sidewalk, as shown in the Street Sections in Chapter 5. The future right of way refers to Montague Expressway after its planned expansion to eight through-lanes.*
- *Policy 4.6: Buildings will be designed with facades facing Montague Expressway. A building entrance shall be provided facing onto Montague Expressway. The facades facing Montague Expressway shall not have blank walls, service entrances, or other features that make the façade look like the back side of a building. Building facades should contain punched openings similar to window openings, cornice or other details at the top of the building, and any sloping floors must be concealed. Parking structures may only front on Montague Expressway if the façade facing the expressway is of a design quality equivalent to habitable space.*

These policies apply specifically to the Trade Zone/Montague Subdistrict:

- *Policy 4.46: Create a deep landscape setback along Capitol Avenue to separate residences from noise and heavy traffic on Capitol Avenue. See Figure 5-11, Chapter 5 of the Specific Plan.*

This policy applies to the entire Planning Area:

- *Policy 6.41: Construct a continuous trail network as delineated in the Transit Area Plan through land dedication and improvements by property owners in coordination with the Santa Clara Valley Water District and the City of Milpitas.*

Other Specific Plan Development Standards:

5. *Lighting*

- a. Lighting should be designed and placed to direct lighting to appropriate surfaces and minimize glare into adjacent areas.
- b. The light source used in outdoor lighting should provide a white light for better color representation and to create a more pedestrian-friendly environment.
- c. Low pressure sodium lamps are prohibited.
- d. To reinforce the pedestrian character of the area, light standards along sidewalks should be approximately 12 to 16 feet in height.
- e. The use of uplighting to accent interesting architectural features or landscaping is encouraged

CONCLUSION

The TASP EIR adequately evaluated the potential aesthetic impacts of the 450 Montague project.

Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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II. AGRICULTURAL AND FORESTRY RESOURCES.

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

DISCUSSION

There are no agricultural or forestry resources located within or near the project site. The Specific Plan area is predominantly urbanized and is classified as “Urban and Built-Up Land” by the State Department of Conservation. The City of Milpitas does contain prime farmland between North McCarthy Boulevard and Coyote Creek, north of Route 237. However, this prime farmland is not located within the boundaries of the Specific Plan. The proposed project is also not located on land that is currently under the Williamson Act contract. In addition, the City does not contain woodland or forestland cover, nor land zoned for timberland production

Therefore, the proposed project would not result in a significant impact to agriculture or forestry resources.

APPLICABLE MITIGATION

No new mitigation measures are required.

CONCLUSION

There would be no agriculture or forestry impacts associated with the 450 Montague project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR includes a detailed analysis of the air quality impacts related to the construction and operation of projects associated with implementation of the Specific Plan. The TASP EIR summarizes the air quality impacts on page 3.6-14 as follows:

Air quality impacts resulting from the implementation of the proposed Specific Plan fall into two categories: short-term impacts due to construction and long-term impacts due to operation. Construction activities pursuant to development under the Specific Plan would affect local particulate concentrations primarily due to fugitive dust sources and an increase in other criteria pollutant emissions from equipment exhaust.

Over the long-term, the full implementation of the proposed Specific Plan would result in an increase in criteria pollutant emissions primarily due to related motor vehicle trips. Stationary sources and area sources would result in lesser quantities of criteria pollutant emissions. These pollutant emissions would add to the regional pollution burden and conflict with the implementation of the 2005 Ozone Strategy. Stationary sources and diesel-fueled mobile sources would also generate emissions of TACs including diesel particulate matter that could pose a health risk.

The Bay Area Air Quality Management District's (BAAQMD) guidelines were referenced to determine if a project would conflict with or obstruct implementation of an applicable air quality plan, which for the TASP EIR was the 2005 Bay Area Ozone Strategy.² For a plan to be consistent with an air quality plan it must be consistent with population and vehicle miles traveled thresholds, which are:

- The population growth for the jurisdiction should not exceed the values included in the current regional air quality plan, and
- The rate of increase in vehicle miles traveled (VMT) for the jurisdiction should be equal to or lower than the rate of increase in population.

In forecasting future stationary and mobile source emissions and preparing the regional air quality plan, the BAAQMD uses growth projections prepared by ABAG.³ The 2005 Bay Area Ozone Strategy is based on population projections in the 2003 ABAG Projections. The TASP EIR found that the increase in population in the City is anticipated to exceed the population increase accounted for by the 2003 ABAG Projections, thus resulting in a significant and unavoidable impact (Impact 3.6-1) related to consistency with the applicable Clean Air Plan.

The population growth associated with the 450 Montague project is consistent with the Specific Plan and would not result in any new impacts related to consistency with the applicable air quality plan.

The TASP EIR determined that construction activities that would occur as part of the Specific Plan would generate substantial amounts of dust primarily from “fugitive” sources and lesser amounts of other criteria air pollutants primarily from the operation of heavy equipment construction machinery (primarily diesel operated) and construction worker automobile trips (primarily gasoline generated). The TASP EIR found that with implementation of BAAQMD dust control measures, construction emissions would not be expected to impede attainment or maintenance of ozone standards in the Bay Area. The Specific Plan also developed policies that would reduce construction and demolition

² Bay Area Air Quality Management District, 2006. *Bay Area 2005 Ozone Strategy*.

³ Association of Bay Area Governments, 2003. *Projections 2003*.

related air quality impacts to less-than-significant levels. The 450 Montague project would be required to comply with BAAQMD dust control measures as described in Specific Plan Policy 5.16, which are designed to address short term air pollutants caused by construction and demolition activities.

The TASP EIR analyzed the Specific Plan's long-term impact on localized air quality from increases in traffic. The analysis indicated no violations of ambient carbon monoxide standards at any of the intersections analyzed. Worst-case carbon monoxide concentrations in the vicinity of the intersections would be well below the State and federal ambient air quality standards. Therefore, the 450 Montague project is not anticipated to result in new air quality impacts related to carbon monoxide hot-spots.

As noted in the TASP EIR, the Bay Area is currently designated “non-attainment” for State (1-hour and 8-hour) and national (8-hour) ozone standards and for the State PM₁₀ and PM_{2.5} standards. Development of projects associated with the Specific Plan (including the 450 Montague project) could further contribute to non-attainment of air quality standards. The TASP EIR identified this impact is significant and unavoidable (Impact 3.6-5).

Additionally, implementation of the Specific Plan could place sensitive land uses near roadways associated with air pollutant emissions that expose sensitive receptors to substantial pollutant concentrations. The TASP EIR analyzed the impact of toxic air emissions (TACs) on sensitive receptors, such as future residents of the 450 Montague project. The TASP EIR found that compliance with Policy 5.25 and BAAQMD's construction BMPs would ensure that impacts are less than significant. Policy 5.25 requires new residential developers to inform future residents of TAC related health effects.

In compliance with Policy 5.25, the project applicant hired ENVIRON International Corporation to conduct an analysis⁴ of the impact of roadways within 500 feet of new residential receptors if traffic on the roadways exceeds 100,000 vehicles per day. The roadways within 500 feet of the proposed project are Montague Expressway, East Capitol Avenue, Great Mall Parkway, Center Point Drive and Sango Court. The results of the analysis found that the total daily traffic volume from all roadways within 500 feet of the project site is approximately 74,000 trips per day, which is below the threshold of 100,000 vehicles per day identified in Policy 5.25. Therefore, the analysis concluded that the City of Milpitas does not require further analysis of TACs from roadway traffic to determine the necessity of the exposure minimization measures for future residents, as residents would not be exposed to substantial pollutant concentrations.

The 450 Montague project is consistent with the type of development analyzed in the TASP EIR and is consistent and therefore, implementation of the project would not result in any new air quality impacts.

APPLICABLE MITIGATION

No new mitigation measures are required.

⁴ ENVIRON, 2014. *CEQA Toxic Air Contaminant Roadway Screening Analysis for Proposed Residential Development at 450 Montague Expressway, Milpitas, California*. November 6.

APPLICABLE POLICIES

General Plan Policies

- Policy 3.d-G-2: Provide adequate bicycle parking and end-of trip support facilities for bicyclists at centers of public and private activity.
- Policy 3.d-I-9: Require developers to make new projects as bicycle and pedestrian “friendly” as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding activity centers.
- Policy 3.d-I-10: Encourage developer contributions toward pedestrian and bicycle capital improvement projects and end-of-trip support facilities.
- Policy 3.d-I-14: Include evaluation of bicycle facility needs in all planning applications for new developments and major remodeling or improvement projects.
- Policy 3.d-I-15: Encourage new and existing developments to provide end-of-trip facilities such as secure bicycle parking, on-site showers and clothing storage lockers, etc.
- Policy 2.b-I-2: Consider locating housing in close proximity to industrial developments where they can be served by existing city services and facilities.

Specific Plan Policies

- *Policy 3.21: Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects. New development shall install sidewalks per the street design standards in Chapter 5 [of the Specific Plan]. The City and/or private property owner shall install sidewalks in areas where they currently do not exist, and where new development is not anticipated during the Plan timeframe. City staff will review individual development applications to ensure that adequate pedestrian facilities are provided and are consistent with the Transit Area Plan's pedestrian improvements.*
- *Policy 3.22: Private development shall be encouraged to provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.*
- *Policy 3.27: Every resident of the Transit Area shall be able to safely walk and bike to the BART and VTA light rail stations. As projects are constructed, make sure that all the routes are continuous and designed to be attractive and safe for pedestrians.*
- *Policy 3.33: Require new development within the Transit Area to facilitate the use of alternative modes of transportation through programs such as carpool parking, the VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, assistance to regional and local ridesharing organizations, alternative work schedules, telecommuting, etc. Establish a Transportation Demand Management (TDM) program for this purpose, as described in Policy 3.16.*
- *Policy 5.23: Require project sponsors to inform future and/or existing sensitive receptors (such as day care facilities, schools, nursing homes) of any potential health impacts resulting from nearby sources of dust, odors, or toxic air contaminants, and where mitigation cannot reduce these impacts.*

- *Policy 5.24: Allow only natural gas fireplaces, pellet stoves or EPA-Certified wood-burning fireplaces or stoves. Conventional open-hearth fireplaces shall not be permitted.*
- *Policy 5.16: During review of specific development proposals made to the City, sponsors of individual development projects under the Specific Plan shall implement the BAAQMD's approach to dust abatement. This calls for "basic" control measures that should be implemented at all construction sites, "enhanced" control measures that should be implemented in addition to the basic control measures at construction sites greater than four acres in area, and "optional" control measures that should be implemented on a case-by-case basis at construction sites that are large in area, located near sensitive receptors or which, for any other reason, may warrant additional emissions reductions (BAAQMD, 1999).*
- *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 exceed 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 exceeds the 10 people in a million standard for carcinogenic human health impacts established by the BAAQMD, the City may require upgraded ventilation systems with high efficiency filters, or other equivalent mechanisms, to minimize exposure of future residents.*

CONCLUSION

The TASP EIR adequately covered the air quality impacts of the 450 Montague project. In addition, ENVIRON International Corporation conducted a CEQA toxic air contaminant (TAC) roadway screening analysis for the proposed project which determined that impacts would be less-than-significant and that further analysis is not required.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The majority of the Specific Plan area is already developed and there are no sensitive habitats identified within the area. The TASP EIR found that the Specific Plan would largely have minimal impacts on biological resources. However, the TASP EIR concluded that proposed development within the Specific Plan would result in removal of landscaping and disturbance to habitat, which could affect wildlife including burrowing owl, nesting birds and common wildlife species (Impacts 3.8-1 and 3.8-2). The TASP EIR also found that development activities near jurisdictional hydrologic features, such as Lower Penitencia Creek, could result in significant impacts (Impacts 3.8-4 and 3.8-5). The TASP EIR concluded that implementation of the proposed policies of the General Plan and Specific Plan would ensure that the impact on biological resources is less than significant.

The only record of special-status species occurring in the area is the burrowing owl. The TASP EIR notes that development of vacant and ruderal lots could result in a loss of burrowing owls or their nests. Since 55 percent of the project site is not developed, the proposed project must adhere to General Plan Policies 4.b-I-4 and 4.b-I-5, and Specific Plan Policy 5.25 to reduce this potential impact to less-than-significant levels.

H.T. Harvey & Associates Ecological Consultants was hired to conduct a burrowing owl survey for the 450 Montague project site on October 17, 2014.⁵ The result of the survey found that burrowing owls are currently absent from the site, the site does not currently provide suitable nesting and foraging habitat, and that it is highly unlikely that burrowing owls will occupy the site or immediately adjacent areas given the low quality of habitat on and adjacent to the site. The survey did find evidence of ground squirrel burrows along the Penitencia Creek Channel area that could potentially be used by burrowing owls, but found this to be highly unlikely due to the presence of human activity, the presence of feral cats, and the highly disturbed conditions surrounding the potential burrowing owl habitat. Furthermore, the project would be required to comply with Specific Plan Policy 5.26 requiring pre-construction surveys 30 days before the beginning of construction to ensure that no owls occupy the site.

The TASP EIR found that the removal of trees could have an impact on non-listed special-status nesting raptors and other birds, as trees do provide habitat for birds and have biological value (Impact 3.8-2). Specific Plan Policy 5.26 addresses the impacts of tree removal and non-listed special-status raptors and nesting birds.

The City has a tree and planting ordinance to protect significant trees,⁶ which require removal permits. According to the City ordinance, any tree that is located on developed commercial or industrial property or on vacant, undeveloped property is protected if the trunk measures 37 inches or greater circumference at 4.5 feet above the ground. The arborist report for the project site identified 45 trees on the project site greater than 15 inches diameter measured at breast height, all of which will be removed. A tree removal permit is required to remove any protected tree and compensation for lost trees may be requested by the City. Tree removal will also comply with all City requirements to minimize impacts on biological resources during removal. As part of the landscape plan, the applicant proposes to plant 314 trees within and along the street frontage of the project site.

Penitencia Creek is protected under Section 404 of the Clean Water Act. The TASP EIR found that while development could have an impact on wetlands and other waterways associated with Penitencia Creek (Impacts 3.8-4 and 3.8-5), direct impacts on the creek are not likely to occur due to required setbacks from the creek (a minimum of 25 feet from top of bank or from a maintenance road if one exists for creation of a public trail) in addition to required side or rear yard setbacks. The General Plan also requires the project applicant to coordinate with appropriate agencies such as the Corps, California Fish and Game (CDFG), and Resource Water Quality Control Board (RWQCB) if necessary. The General Plan and Specific Plan policies outlined below ensure that impacts would be less than significant. In addition, the 450 Montague Project would have no direct impact on Penitencia Creek and meets the setback requirements for all structures.

The 450 Montague project is consistent with the type of development analyzed within the TASP EIR. Tree removal will be conducted in conformance with the City's Tree Ordinance. As such, there is no new impact on biological resources.

⁵ H.T. Harvey & Associates Ecological Consultants, 2014. *Lennar-Milpitas Burrowing Owl Survey and Habitat Assessment Report (HTH #7647)*. October 23.

⁶ Milpitas, City of. Municipal Code, Title X, Street and Sidewalks, Section 7 – Tree Protection and Heritage Tree Program.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

General Plan Policies

- Policy 4.b-I-4 Require a biological assessment of any project site where sensitive species are present, or where habitats that support known sensitive species are present.
- Policy 4.b-I-5 Utilize sensitive species information acquired through biological assessments, project land use, planning and design.

Specific Plan Policies

- *Policy 5.26: For any project sites that are either undeveloped or vacant and support vegetation, or project sites which are adjacent to such land, a pre-construction survey shall be conducted by a qualified biologist within 30 days of the onset of construction. This survey shall include two early morning surveys and two evening surveys to ensure that all owl pairs have been located. If preconstruction surveys undertaken during the breeding season (February 1st through July 31st) locate active nest burrows, an appropriate buffer around them (as determined by the project biologist) shall remain excluded from construction activities until the breeding season is over. During the non-breeding season (August 15th through January 31st), resident owls may be relocated to alternative habitat. The relocation of resident owls shall be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game (CDFG). This plan shall provide for the owl's relocation to nearby lands possessing available nesting habitat. Suitable development-free buffers shall be maintained between replacement nest burrows and the nearest building, pathway, parking lot, or landscaping. The relocation of resident owls shall be in conformance with all necessary state and federal permits.*
- *Policy 5.27: To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Service (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required.*
- *Policy 5.29: Per Figure 5-23 G and Tables 5-1 and 5-2 [of the Specific Plan], a minimum 25 foot setback from the top of bank of any creek or drainage channel, or from a maintenance road if one exists, shall be provided.*
- *Policy 5.30: Prior to new development in areas that border creeks and with potential riparian habitat, applicants will be required to coordinate with the CDFG, as required by law. Coordination will include evaluation of existing riparian habitat and development of*

avoidance, minimization, and/or compensatory measures sufficient to procure a Streambed Alteration Agreement with the CDFG.

- *Policy 5.31: For properties adjacent to any waterway in the study area, the following requirements shall apply:*
 - *Any plans for construction over the Santa Clara Valley Water District (SCVWD) fee or easement lands require review and issuance of a permit.*
 - *The SCVWD’s Milpitas Pipeline, located at the north end of the study area and adjacent and parallel to the rail line continuing south onto Capitol Avenue at the southern end of the study area, shall be shown on all future plans.*
 - *Projects should generally be consistent with the recommendations developed by the Water Resources Protection Collaborative in the “Guidelines and Standards for Land Use Near Streams.”*
- *Policy 5.32: Consistent with current City practice, all new development located on or adjacent to Penitencia and Berryessa Creek will be required to comply with the standards and guidelines for land uses near streams, as adopted by the City of Milpitas. Any development or construction activity to be conducted on or adjacent to SCVWD property or easements, such as creek crossings, shall be required to obtain applicable permits from the SCVWD prior to such construction activity.*

CONCLUSION

The TASP EIR adequately evaluated the potential biological impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR concluded that the potential impact of development within the Specific Plan area on cultural resources, including historic, archeological and paleontological resources and human remains was less than significant. However, the TASP EIR concluded that a disturbance to cultural resources could occur during grading and development of individual projects within the Specific Plan area, and that there is a reasonable possibility that archeological deposits could be uncovered and identified during grading (Impacts 3.13-2 and 3.13-3). The TASP EIR identifies several national, State and local laws and policies in the General Plan, Midtown Plan and Specific Plan that would reduce the potential impacts on known or undiscovered cultural resource to less than significant levels.

There are no known historic or cultural resources within the project site.⁷ The existing structures that would be demolished as part of the project are approximately 35 years, are typical of light industrial buildings located throughout the State, and are not likely to yield important information about the State or region's history. The project applicant would be required to adhere to all applicable State laws if human remains are discovered, and would be required to follow Specific Plan Policies 5.34 and 5.35 during earth moving activities. Construction of the 450 Montague project would not result in any new impacts to cultural resources.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

Pursuant to CEQA Guidelines 15064.5 (f), if potentially significant cultural resources are discovered during ground-disturbing activities associated with project preparation, construction, or completion, work shall halt in that area until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with Santa Clara County and other appropriate agencies and interested parties. For example, a qualified archaeologist shall follow accepted professional standards in recording any find including submittal of the standard Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and locational information to the California Historical Resources Information Center Office (Northwest Information Center). The consulting archaeologist shall also evaluate such resources for significance per California Register of Historical Resources eligibility criteria (Public Resources Code Section 5024.1; Title 14 CCR Section 4852). If the archaeologist determines that the find does not meet the CEQA standards of significance, construction shall proceed. On the other hand, if the archaeologist determines that further information is needed to evaluate significance, the Planning Department staff shall be notified and a data recovery plan shall be prepared.

All future development in the Planning Area will be in accordance with State laws pertaining to the discovery of human remains. Accordingly, if human remains of Native American origin are discovered during project construction, the developer and/or the Planning Department would be

⁷ Milpitas, City of, 2015. Cultural Resources Register. Available online at: www.ci.milpitas.ca.gov/pdfs/plan_cultural_resources.pdf (accessed on January 13).

required to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (PRC Sec. 5097). Sections 21083.2 and 21084.1 of the PRC states that if any human remains are discovered or recognized in any location on the project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- The Santa Clara County Coroner/Sheriff has been informed and has determined that no investigation of the cause of death is required; and
- If the remains are of Native American origin,
 - The descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98, or
 - The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission

Specific Plan Policies

- *Policy 5.34: Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines § 15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. (Reference CEQA §§ 21083.2, 21084.1.) In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC) which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods.*
- *Policy 5.35: All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted.*

CONCLUSION

The TASP EIR adequately evaluated the potential cultural resource impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR concluded that the geologic and soil impacts in the Specific Plan area are primarily related to potential ground shaking and associated ground failure (liquefaction), soil expansion, settlement and soil erosion during construction activities. Since the Specific Plan area is not located within an Earthquake Fault Hazard Zone, the likelihood of surface fault rupture is minimal. In addition, the TASP EIR found that slope instability hazards are also minimal because the surface area in the Specific Plan area is relatively level.

The TASP EIR determined that impacts related to ground shaking, liquefaction, settlement and soil erosion are less than significant when projects are built in accordance with General Plan Policy 5.a.-I-3, the City of Milpitas Municipal Code and NPDES General Construction Permit requirements (Impacts 3.5-1, 3.5-2, and 3.5-3). Specifically, the TASP EIR states that State of California building codes and construction standards contained in Title 24 of the CCR reduce impacts to a less-than-significant level. The 450 Montague project would be designed and constructed in accordance with these requirements.

Projects associated with implementation of the Specific Plan would be required to comply with NPDES General Construction Permit requirements. Project applicants would be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) to minimize the discharge of pollutants, including silt and sediment, during construction. The SWPP would need to include measures to control erosion and effectively manage runoff and retain sediment on-site during construction.

Additionally, in accordance with the City Code, building permit applications for subdivisions must be accompanied by a preliminary soils report. The report must address site soil conditions, including expansive soils, settlement, and erosion, and provide recommendations to offset potential soils problems. Compliance with the recommendations included in the preliminary soils report and geotechnical investigation would help reduce potential liquefaction hazards to less-than-significant levels.

The 450 Montague Project is consistent with the type of development analyzed in the TASP EIR and is required to adhere to General Plan and Specific Plan policies relating to building standards and emergency service needs. The 450 Montague Project submitted a Stormwater Control Plan on December 12, 2014.⁸

In addition, the applicant hired Rockridge Geotechnical to prepare a preliminary soils report on January 7, 2014, which was submitted to the City on December 14, 2014. The findings of the preliminary soil report indicated that the project site is bound by the following geotechnical constraints: 1) the presence of 1 to 3 feet of undocumented fill on the site; 2) the presence of highly expansive near-surface fill and native clay; and 3) the potential for differential settlement under static foundation loads due to compression of the thin, light over-consolidated clay layers between depths of 10 and 20 feet.⁹ The preliminary geotechnical report makes specific recommendations to lessen these constraints, including: moisture conditioning; blending and re-compacting of the undocumented fill; moisture conditioning the expansive soil and adding non-expansive fill or lime treated soil; the use of supporting foundations below the moisture zone, or the use of stiff, shallow foundations; and the use of conventional shallow foundations to resist the effect of highly expansive near-surface soil.¹⁰ The report also recommends that the expansion potential of the soil and the potential impact on the 450 Montague Project should be further evaluated during the final geotechnical investigation of the

⁸ Carlson, Barbee & Gibson, Inc., 2014. *Stormwater Control Plan for 450 Montague, Milpitas, CA*. December 14.

⁹ Rockridge Geotechnical, 2014. *Preliminary Geotechnical Study Due Diligence Evaluation*. January 17.

¹⁰ Ibid.

project once a proposed grading plan has been established.¹¹ Implementation of measures identified in the geotechnical report would be required as a Condition of Approval.

Since the 450 Montague Project would comply with Specific Plan policies, including implementing the recommendations of the preliminary geo-technical report, there is no new impact on geology and soil.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

General Plan Policies

- *Policy 5.a-I-3: Require projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual. Mandatory compliance with building codes and construction standards established in the California Building Code, the requirements of the Seismic Hazards Mapping Act and the City of Milpitas Municipal Code, and policies contained in the City of Milpitas General Plan would reduce seismic-related ground shaking and liquefaction to less than significant levels.*

Specific Plan Policies

- *Specific Plan Policy 5.36: Require construction projects that disturb one or more acres to prepare a Stormwater Pollution Prevention Plan (SWPPP) that, when properly implemented, would reduce or eliminate impacts on surface water quality during construction.*
- *Specific Plan Policy 5.37: Require construction projects to comply with the Santa Clara County National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges.*

CONCLUSION

The TASP EIR adequately evaluated the potential geology and soil impacts of the 450 Montague Project.

¹¹ Ibid.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
VII. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR found that the primary source of greenhouse gas (GHG) emissions related to urban development in the Specific Plan area are anticipated to continue to be from combustion of fossil fuels by motor vehicles and from electric power generation. Short-term impacts are anticipated from construction activity that will occur during the implementation of the Plan. Since the GHG emission rate is related to growth, the Specific Plan promotes policies that reduce energy consumption and fuel usage by encouraging development patterns that will reduce the vehicles miles traveled (VMT) per capita and proposes a variety of actions and policies that can reduce emissions to less-than significant levels.

The TASP EIR found that the rate of increase in VMT would be less than the rate of increase in population due to the mixed-use and transit area nature of new development proposed under the Specific Plan. The TASP EIR found that while the population is expected to increase significantly in the area, a large percentage of that population would use transit options made available to them which in turn would reduce vehicle use. The TASP EIR also found that the increase in VMT will not prevent the reduction of statewide greenhouse gas emissions to 1990 levels.

In 2013, the City adopted the Milpitas Climate Action Plan (CAP),¹² which is considered a Qualified GHG Reduction Strategy by the Bay Area Air Quality Management District (BAAQMD). If the project is consistent with the CAP, it can be presumed that the project will not have significant GHG emissions under CEQA and no further GHG analysis would be required for the project. As shown in Appendix A to this document, the City and the project applicant prepared the Development Checklist from Appendix C of the CAP. Based on the features incorporated into the project by the applicant, the project would be consistent with the CAP.

Additionally, the TASP EIR identifies several Specific Plan policies that reduce the impacts of greenhouse gas emissions associated with growth: planting trees, establishing and implementing a travel demand management program to encourage alternate modes of transportation, providing

¹² Milpitas, City of, 2013. *Climate Action Plan. A Qualified Greenhouse Gas Reduction Strategy.* May 27.

pedestrian and bike routes, providing continuous bicycle circulation routes, requiring provision of bicycle and pedestrian facilities, and requiring new development to facilitate the use of alternate modes of transportation through various programs. These policies are outlined further below and would be applicable to the proposed project.

Regarding electricity consumption, the TASP EIR found that the increase in total demand for electrical energy as a result of the Specific Plan will be reduced to less-than-significant levels by requiring compliance with State, local and Specific Plan energy efficiency policies. These policies (outlined below) will ensure that the additional energy that homes and businesses consume will not impede achievement of the statewide reduction in emissions mandated by the California Climate Solutions Act of 2006 and will ensure that the impact of increased energy consumption in the Specific Plan area is less than significant.

The 450 Montague Project adheres to the building guidelines of the Specific Plan, is consistent with the Milpitas CAP, and promotes reductions in greenhouse gas emissions through high-density development in close proximity to transit. Additionally, while the proposed project would remove all existing trees, the project proposes to plant approximately 314 trees, which will help offset greenhouse gas emissions. The proposed project would result in no new impacts related to greenhouse gas emissions and further analysis is not required.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

Specific Plan Policies related to Greenhouse Gas Emissions

- *Policy 3.16: Establish and implement a travel demand management (TDM) program in order to encourage alternate modes of travel and thereby reduce automobile trips. Establish a funding mechanism to pay for the costs of the program, including the cost of a transportation coordinator to administer the program. The program would include a ride-matching program, coordination with regional ride-sharing organizations, and provision of transit information; and could also include sale of discounted transit passes and provision of shuttle service to major destinations.*
- *Policy 3.21: Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.*
- *Policy 3.22: Private development shall provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.*
- *Policy 3.23: Encourage children to walk or bike to school by expanding existing safe walking and bicycling routes to schools into the Transit Area.*
- *Policy 3.28: Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the Specific Plan].*

- *Policy 3.31: Require provision of bicycle and pedestrian facilities such as weather protected bicycle parking, direct and safe access for pedestrians and bicyclists to adjacent bicycle routes and transit stations, showers and lockers for employees at the worksite, secure short-term parking for bicycles, etc.*
- *Policy 3.33: Require new development within the Transit Area to facilitate the use of alternative modes of transportation through programs such as carpool parking, the VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, assistance to regional and local ridesharing organizations, alternative work schedules, telecommuting, etc. Establish a Transportation Demand Management (TDM) program for this purpose, as described in Policy 3.16.*
- *Policy 5.6: Require the use of Energy Star appliances and equipment in new residential and commercial development, and new City facilities.*
- *Policy 5.7: Require at least 50 percent of all new residential development to be pre-wired for optional photovoltaic roof energy systems and/or solar water heating.*
- *Policy 5.8: Incorporate cost-effective energy conservation measures into all buildings being constructed by the City in the Transit Area, including construction, operations and maintenance. These measures can include but are not limited to:*
 - *Energy efficient light fixtures, including solar powered systems, for streetscapes, parks, and public buildings which have limited glare and spillover;*
 - *Automatic lighting systems in public buildings and offices; and*
 - *Life-cycle costing of capital projects so that the environmental, societal, and economic costs are evaluated over the project's long-term operation.*

CONCLUSION

The TASP EIR adequately covered the greenhouse gas emissions impacts of the 450 Montague Project and no new impacts related to greenhouse gas emissions are anticipated.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
VIII. HAZARDS AND HAZARDOUS MATERIALS.				
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR concluded that due to past land uses and previously reported hazardous material releases and spills, there are potential impacts associated with existing soil and groundwater contamination in areas of the Specific Plan (Impact 3.4-1). These potential impacts include the risk of upset during demolition and construction activities and could pose a health risk to humans and the environment. All projects implemented as part of the Specific Plan are subject to existing hazardous materials regulations for the use, transport and disposal of hazardous materials. The TASP EIR found that any impact from potential exposure during construction can be reduced to a less-than-significant level with implementation of Specific Plan policies.

Existing structures that would be demolished in the Specific Plan area could potentially include hazardous building materials such as asbestos, PCBs or lead-based paint. Specific Plan Policy 5.21 requires applicants to submit information to the City regarding asbestos-containing building materials, PCBs, and lead-based pain in existing buildings proposed for demolition. The 450 Montague Project would be required to comply with Policy 5.21, reducing this impact to a less-than-significant level.

All new development within the Specific Plan area must comply with Section 19827.5 of the California Health and Safety Code, which requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with notification requirements under applicable federal regulations regarding hazardous air pollutants, including asbestos. Full compliance with Title 17 and Title 8 of the California Code of Regulations is also required, which includes implementing work practice standards related to the evaluation and abatement of lead in public and residential buildings and covers construction work where an employee may be exposed to lead.

Advanced Environmental Concepts, Inc. (AEC) prepared a Phase I hazards report for the 450 Montague project site in October 2012. The results of this study identified the following Recognized Environmental Condition:¹³

Subsurface investigations of soil gas, soil, and groundwater conducted by Enviro Soil Tech and Environmental Guidance have identified concentrations of volatile organic compounds in the three media that exceed applicable regulatory action levels such as the Bay Area ESLs and water quality MCLs. However, the site is under the supervision of the Bay Area RWQCB (Mr. Mark Johnson), and Mr. Johnson has informed both the current consultant of record (Tim Becker of Environmental Guidance) and AEC that due to the low onsite concentrations of VOCs in shallow groundwater that it does not warrant remedial measures.

Therefore, AEC recommends completion of the required groundwater sampling events and obtaining a letter of no further action from the RWQCB. In addition, AEC recommends preparation of a Soil Management Plan to address contingencies that may be identified during the demolition of the existing building and proposed new development.

¹³ Advanced Environmental Concepts, Inc., 2012. *Phase I Site Assessment for 450 Montague Expressway*. October.

Arcadis US, Inc. (Arcadis) prepared a Phase I Environmental Site Assessment (ESA) report on March 7, 2014 for the portion of the project site located at 400 Montague Expressway. The findings of this report did not identify environmental concerns related to the historical development and current use of the site other than the following Recognized Environmental Conditions:

- The prior agricultural use of the site indicates the potential for residual pesticides in shallow surface soil.
- The prior use of the site by Vickers for minor vehicle servicing and washing indicates a potential for a release of automotive-related fluids to the site surface.
- The adjacent property north of the site (450 Montague Expressway) had a release of VOCs that impacted groundwater. Based on the hydraulically cross-gradient location, there is a potential that contaminated groundwater has migrated beneath the site.

The applicant will comply with Policy 5.2 and will prepare a Phase I for the 2369 E. Capitol Avenue and 620 E. Capitol Avenue parcels prior to the issuance of the site development permits.

Arcadis later prepared a Limited Phase II hazards report in July 2014 for the 450 Montague portion of the project site, the Capitol Avenue portions, as well as some portions of the 400 Montague site. The purpose of the Phase II hazards report was to assess whether chemicals, primarily volatile organic compounds (VOCs) are present. The report concluded that VOC concentrations in soil and groundwater samples collected during the investigations were below their corresponding residential environmental screening levels (ESLs). However, several VOCs were detected in soil vapor samples that exceeded their corresponding ESLs by one or two orders of magnitude. Arcadis found that the VOC-impacted soil vapor to be limited to the parking lot behind the existing building at 450 Montague and recommend that it can be remediated with soil excavation during site development and that it does not appear that VOC-affected groundwater is a source of VOCs in the soil vapor.

In addition, Arcadis reported that based on RWQCB data, the concentrations of VOCs were declining at the 450 Montague portion of the project site and that the RWQCB issued a letter on December 2013 to the property owner stating that they were considering a "low threat closure" of the property if an Environmental Covenant and Deed Restriction to restrict the use of groundwater was recorded and if a Soil Management Plan was prepared for possible redevelopment of the property with a residential use.

Implementation of the above-mentioned remediation actions, including those associated with soil excavation and the development of a soil management plan, would be required as a Condition of Approval for the project. Implementation of the remediation measures identified in the various environmental reports, as well as a deed restriction, would also be required as a Condition of Approval. In addition, Specific Plan Policy 5.22 requires Risk Management Plans at sites with known contamination issues. As noted above, a Phase II hazards report identified VOC-impacted soil vapor above the associated screening level. The proposed project would be required to develop a Risk Management Plan.

Hazardous materials transportation, use, and disposal would be subject to State and federal hazards materials laws and regulations. Hazardous materials would be required to be transported under DOT regulations as well as ordinances administered by the Milpitas Fire Department and Santa Clara County department of Environmental Health.

The project site is not located within 2 miles of a public airport. Additionally, the proposed project would not be expected to impair implementation or interfere with an adopted emergency plan. Specific Plan Policies 6.49, 6.50, and 6.52 would ensure that adequate emergency services are available.

The 450 Montague Project is consistent with the overall vision of transforming the area from industrial to a new, transit-oriented, mixed-use neighborhood. Since the proposed project would comply with Specific Plan policies, including Policy 5.20, 5.21 and 5.22, there are no new impacts on hazards and hazardous materials.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

Specific Plan Policies

- *Policy 5.20: Property owners shall work with the City of Milpitas Fire Department, the Santa Clara County Department of Environmental Health (SCCDEH), the California Department of Toxic Substances Control (DTSC), and/or the State Water Resources Control Board (SWRCB), whichever has jurisdiction, to resolve issues related to contamination that could potentially impact future land uses in the project area. The lateral and vertical extent of contamination shall be determined, remediation activities completed, and land use restrictions implemented, as necessary, prior to the issuance of development permits on parcels with known contamination.*

For parcels with known contamination, appropriate human health risk assessments (HHRAs) shall be conducted based on proposed land uses by a qualified environmental professional. The HHRAs shall compare maximum soil, soil gas, and groundwater concentrations to relevant environmental screening levels (ESLs²) and evaluate all potential exposure pathways from contaminated groundwater and soil. Based on the findings of the HHRAs, if appropriate, engineering controls and design measures shall be implemented to mitigate the potential risk of post-development vapor intrusion into buildings.

For parcels with no identified contamination, a Phase I study shall be completed to review potential for ground water, soil, or other contamination related to previous land uses. If any potential for contamination is determined to exist that could adversely affect human health for residential uses, a Phase II level analysis shall be conducted per City, State, and Federal requirements. If contamination is found to exist, procedures for contaminated sites as described in the paragraph above shall be followed.

- *Policy 5.21: Project applicants shall submit information to the City regarding the presence of asbestos-containing building materials, PCBs, and lead-based paint in existing buildings proposed for demolition, additions, or alterations. The information shall be verified prior to the issuance of demolition permits by the City of Milpitas Building Inspection Division for any existing structures or buildings in the project area. If it is found that painted surfaces contain lead-based paint and/or the structures contain asbestos-containing*

building materials, measures to ensure the safe demolition of site structures shall be incorporated into the project Demolition Plan. The Demolition Plan shall address both onsite and offsite chemical and physical hazards. Prior to demolition, hazardous building materials associated with lead-based paint and asbestos-containing building materials shall be removed and appropriately disposed of in accordance with all applicable guidelines, laws, and ordinances. The demolition of buildings containing asbestos would require retaining contractors who are licensed to conduct asbestos abatement work and notifying the Bay Area Air Quality Management District (BAAQMD) ten days prior to initiating construction and demolition activities. Regarding lead based paint, Cal-OSHA regulates all worker exposure during construction activities associated with lead-based paint. The Cal-OSHA-specified method of compliance includes respiratory protection, protective clothing, housekeeping, hygiene facilities, medical surveillance, and training.

- *Policy 5.22: At sites with known contamination issues, a Risk Management Plan (RMP) shall be prepared to protect the health and safety of construction workers and site users adjacent to construction activities. The RMP shall include engineering controls, monitoring, and security measures to prevent unauthorized entry to the construction site and to reduce hazards outside of the construction site. The RMP shall address the possibility of encountering subsurface hazards and include procedures to protect workers and the public. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. Protocols for the handling, transport, and disposal of both known and previously unidentified hazardous materials that may be encountered during project development shall be specified. If prescribed exposure levels are exceeded, personal protective equipment shall be required for workers in accordance with OSHA regulations. Finally, the RMP shall also include procedures for the use, storage, disposal, of hazardous materials used during construction activities to prevent the accidental release of these materials into the environment during construction.*
- *Policy 6.50: The Fire Department shall conduct a “standards of cover” analysis to determine the Transit Plan’s precise impact on the department’s staffing and equipment, and any required facility needs. Identify and evaluate potential sites for an expanded or new fire station near the Transit Area if the standards of cover analysis determines it is warranted.*
- *Policy 6.51: Additional fire department staff will be hired, equipment purchased, and facilities built to provide an adequate level of service—as determined by City Council—for the residents, workers, and visitors of the Transit Area. New equipment and facilities shall be funded by the Community Facilities District fee and new staff paid from the City’s General Fund. These facilities are not expected to be sited within the Transit Area.*
- *Policy 6.53: The Fire Department shall update the City’s emergency and disaster response plans to take the location and type of new development, and future traffic levels, into account.*

CONCLUSION

The TASP EIR adequately evaluated potential impacts related to hazards and hazardous materials at or affecting the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR identified that implementation of the Specific Plan would have minimal impacts on the hydrology and water quality of the Specific Plan area. Potential impacts to groundwater and to streams and rivers are not likely to occur, and the Specific Plan area is expected to maintain the same drainage pattern upon build-out, utilizing existing street gutters and storm drains. Furthermore, the Specific Plan area is also not subject to inundation by seiche, tsunami or mudflow. Potential impacts would be related to stormwater and flooding (Impacts 3.10-3) and water quality (Impacts 3.10-1 and 3.10-2). The TASP EIR concluded compliance with specific municipal policies, General Plan and Specific Plan policies would reduce the impacts related to stormwater quality, runoff, and flooding to less-than-significant levels.

During the construction period, grading and excavation activities would result in exposure of soil to runoff, potentially causing erosion and entrainment of sediment in runoff. This condition could cause erosion and increase sedimentation in storm drains or waterways within the area. In addition, there is the potential for release of chemicals such as fuels, oils, paints and solvents from construction sites. The chemicals could be transported to nearby surface waterways, groundwater in stormwater runoff, wash water and dust control water. General Plan Policies 4.d-G-1 and 4.d-I-1 and Specific Plan Policies 5-36 and 5-37 would help reduce construction related water quality impacts to less-than-significant levels.

In addition, construction projects are required to prepare a Stormwater Control Plan, which requires implementing Best Management Practices (BMPs) to control stormwater peak flows and pollutant levels. This requirement is stipulated in Provision C.3 of the Santa Clara County National Pollutant Discharge Elimination System (NPDES). All projects within the Specific Plan area must comply with NPDES requirements, including the proposed project.

The proposed increase in population and traffic associated with the project could increase discharge of pollutants in stormwater runoff beyond current levels after partial or full build-out of the Specific Plan. However, full compliance with the Santa Clara County NPDES permit guidelines for stormwater discharge, General Plan Policy 4.d-G-1, Midtown Policy 6.8, and Specific Plan Policies 5-36 and 5-37 would ensure the impacts would be less than significant.

The Specific Plan area is within a FEMA-designated floodplain. As such, the City has conducted area-wide storm drainage planning that includes Master Grading and Storm Drainage Plans for each subdistrict of the Specific Plan area. The proposed project must comply with the requirements of the Master Grading and Storm Drainage Plans for the Montague Corridor and Trade Zone/Montague subdistricts. Additional impacts related to the floodplain could occur, however, several local and Specific Plan policies identified in the TASP EIR would reduce the impact to less-than-significant levels.

Since the 450 Montague project site is located in a FEMA special flood area, a flood study was conducted for the property by Schaaf & Wheeler Associates on October 21, 2014.¹⁴ The analysis found that the project site has impacts of less than 0.3 feet, neighboring projects would not adversely impact one another, and cumulative impacts would be less than 1 foot. The report found that the proposed project complies with the City of Milpitas Floodplain Ordinance Section XI-15-4.3 (a)(4) and XI-15-5.1 (c)(1), which requires residential finish floor elevations be one foot above the base flood elevation.

The 450 Montague Project conforms to the TASP EIR, and, therefore, there is no new impact on hydrology and water quality.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

City of Milpitas Municipal Policies

- Standards of Construction (Section XI-15-5.1) – specify requirements for anchoring, construction materials and methods, and elevation and flood-proofing
- Standards for Utilities (Section XI-15-5.2) – specify requirements for new and replacement water supply and sanitary sewage systems, and on-site waste disposal systems
- Standards for Subdivisions (Section XI-15-5.3)
- Floodways (Section XI-15-5.6) – specify requirements and constraints for encroachments, and other flood hazard reduction provisions.

General Plan Policies

- Policy 4.d-G-1: Protect and enhance the quality of water resources in the Planning Area.
- Policy 4.d-I-1: Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City’s Zoning Ordinance.

¹⁴ Schaaf & Wheeler Consulting Civil Engineers, 2014. *450 Montague Flood Study*. October 21.

Specific Plan Policies

- *Policy 5.36: Require construction projects that disturb one or more acres to prepare a Stormwater Pollution Prevention Plan (SWPPP) that, when properly implemented, would reduce or eliminate impacts on surface water quality during construction.*
- *Policy 5.37: Require construction projects to comply with the Santa Clara County National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge.*
- *Policy 6.1: Minimize damage associated with flooding events and comply with regulations stipulated by FEMA and the National Flood Insurance Program.*
- *Policy 6.2: New development within a FEMA-designated flood hazard zone must follow the City's construction standards for such areas, as currently laid out in Section XI-15 'Floodplain Management Regulations' of the Milpitas Municipal Code.*
- *Policy 6.3: New development must maintain the Transit Area's urban design standards. In particular, first floor commercial space must be within two feet of the elevation of the public sidewalk. The design and development standards in Chapter 5 [of the proposed Plan] must be followed, as well as the FEMA construction standards. This policy is particularly important regarding the location and appearance of on-site parking and the accessibility of ground floor retail from sidewalks. FEMA's construction standards require a building's floor plate to be one foot above flood level. Rather than elevate a building on stilts and require store access via stairs or ramps, the ground floor should be accessible via a sloping sidewalk. On streets fronted by ground floor commercial, no sidewalk shall be more than two feet above or below the floor level of adjacent commercial space, as specified in Chapter 5. The sidewalk needs to be designed so that the grade of its slope complies with federal, state, and local standards for disabled access.*
- *Policy 6.4: Provide storm drain infrastructure to adequately serve new development and meet City standards.*
- *Policy 6.5: Ensure that runoff in storm drains does not lower water quality within or outside of the Transit Area by implementing Best Management Practices (BMPs) in new developments within the Transit Area.*
- *Policy 6.6: Construct the improvements within the Transit Area that were identified in the 2001 Storm Drainage Master Plan, and any other improvements identified in updates to the Master Plan.*
- *Policy 6.7: Prepare Master Grading and Storm Drainage Plans for each subdistrict of the Transit Area prior to approval of Zoning Permits for new buildings in that subdistrict.*

Midtown Specific Plan Policies

- *Policy 6.8: Encourage creativity in design of new development in order to reduce stormwater runoff, increase percolation, and improve water quality.*

CONCLUSION

The TASP EIR adequately evaluated the hydrology and water quality impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR concluded that while implementation of the Specific Plan would significantly change the land use designations and pattern of development for the area, impacts related to land use would be minimal. The Specific Plan does not divide an established community because the area was primarily developed with industrial uses prior to the development of the Specific Plan. In addition, there is no habitat conservation or natural community conservation plans within the Specific Plan area.

Existing land use designations in the Specific Plan would change from industrial to residential, mixed-use, and parks/community facilities over a period of 20 years. The changes that occur as a result of the Specific Plan are seen as positive and will include the development of street and trail connections and pedestrian bridges across major arterials to connect resident and employees with jobs, services, parks and transit. New zoning districts associated with the Specific Plan include: MXD2, MXD3, and R5 and edits the “- TOD” Combining District to include MXD2-TOD, MXD3-TOD, R3-TOD, R5-TOD, and MPTOD and revises C2-TOD. These amendments ensure that potential impacts related to inconsistency and altered land use designations are less than significant.

Under the Specific Plan, the proposed project has two land use designations: Boulevard Very High Density Mixed Use and Very High Density Transit Oriented Residential. Permitted uses under the Boulevard Very High Mixed Use designation include residential, office, commercial and medical.

A 1.5 maximum gross FAR and density of FAR of 2.5 may be permitted on individual sites in this land use designation. In addition, building heights of 4-12 stories (20 stories with CUP) are permitted. Permitted densities for residential uses range from a minimum of 41 units per acre minimum average gross density to 60 units per acre maximum average gross density. Small local-serving retail, office, and live/work uses are permitted at ground floor levels.

Permitted uses under the Very High Density Transit Oriented Residential include only residential with densities ranging from 41 units per acre minimum to 60 units per acre maximum gross density. Building heights in this land use designated area range from 4 to 6 stories, with 12 stories permitted near arterials and 20 stories permitted with CUP.¹⁵ The 450 Montague Project complies with the standards of both of these land use designations and would develop in the lower range of the density and intensity standards from what was assumed in the TASP EIR.

The TASP EIR also found that proposed uses would be more compatible with the adjacent residential and commercial uses than existing uses. However, over the planning horizon, the City expects there would be temporary incompatible land uses in the area until the build-out of the Specific Plan is complete. Policies are included in the Specific Plan to address temporary neighboring incompatible land uses. The Specific Plan includes streets, landscaped areas, parks and linear parks that create buffers between the different types of land uses. Conformance with Specific Plan policies (outlined below) will ensure that temporary conflicts between land uses would be less than significant.

The Specific Plan area is intended to be a cohesive neighborhood identified by a similar look and feel in its public spaces and a consistent orientation toward walking and transit usage. However, the area is currently bisected by regional arterial roadways and rail lines that create discrete areas with varying development environments. As a planning and development strategy, the Specific Plan created subdistricts to capitalize on and accommodate these identified areas. Each subdistrict has a carefully chosen plan of land uses, local street grid, and open space assigned to it to generate a character that takes into account existing and future physical conditions as well as expected market demand. Each subdistrict has individual development criteria for setbacks and building location and placement, which would reduce the impact of interactions between adjacent potentially incompatible uses.

The proposed project is within the overlapping Montague Corridor and Trade/Montague subdistricts. The Montague Corridor subdistrict encompasses the area fronting Montague Expressway, which is a broad, high volume roadway that is anticipated to become wider and experience an even greater volume of traffic by the time the Specific Plan is built out. The goal of the corridor is to create a grand boulevard style neighborhood with intense development that is near a major transit station.

The Trade Zone/Montague subdistrict is located east of Montague Expressway and south of Capitol Avenue, extending to the City limits on Trade Zone Boulevard and Lundy Street. The goal of this subdistrict is to create an attractive residential district, with ample green space in the form of a sports field and a creekside park, plus trails along Penitencia Creek. Land Use Policy 4.44 for the Trade Zone/Montague Subdistrict of the Specific Plan requires all projects within this subdistrict to create an interior street parallel to Capitol Avenue in an effort to create a “quiet front door” and “residential

¹⁵ Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008; Chapter 3.

character” for the residents.¹⁶ The proposed project includes two internal roads, Street A and Street B. Street A conforms to Policy 4.44 as it is parallel to East Capitol Avenue and would be extended in the future by adjacent properties as they redevelop. As such, the proposed project would conform to the development standards of both subdistricts, which lessens the impact of incompatible adjacent uses.

Since the land use impacts of the 450 Montague Project are consistent with the impacts identified in the TASP EIR, and because the project would comply with the building standards of the Specific Plan, there is no new impact on land use.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

Specific Plan Policies

- *Policy 3.8: Allow contiguous developments to build at higher or lower residential densities, so long as their average density falls between the designated minimum and maximum.*
- *Policy 3.9: Maintain the Midtown Plan’s gross floor area policy, which excludes all areas of a building devoted to parking from FAR calculations.*
- *Policy 3.38: The open space requirements of the Midtown Milpitas Specific Plan (Policy 3.2.4) shall apply to the entire area of the Transit Area Specific Plan.*

Montague Corridor Subdistrict Policies

- *Policy 4.1 (MON): High rise buildings are encouraged along Montague Expressway.*
- *Policy 4.2 (MON): New curb cuts and auto access onto Montague Expressway are strongly discouraged, unless specifically indicated on the Plan map.*
- *Policy 4.3 (MON): Parcels fronting Montague Expressway are permitted to contain residential, employment, or hotel uses.*
- *Policy 4.4 (MON): A 45 foot wide, landscaped setback is required from the future right of way line of Montague Expressway.*
- *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.*
- *Policy 4.6 (MON): Buildings will be designed with facades facing Montague Expressway.*

Trade/Montague District Policies

- *Policy 4.43 (TR-M): Create a new street that aligns with the Milpitas Boulevard Extension with a traffic signal that allows left and right turns from Capitol Avenue.*

¹⁶ Dyett and Bhatia, *City of Milpitas Transit Area Specific Plan*, June 2008. Chapter 4.

- *Policy 4.44 (TR-M): Create an interior street parallel to Capitol Avenue.*
- *Policy 4.45 (TR-M): Do not locate curb cuts for driveway or garage access on Capitol Avenue.*
- *Policy 4.46 (TR-M): Create a deep landscape setback along Capitol Avenue to separate residences from noise and heavy traffic on Capitol Avenue. See Figure 5-11, Chapter 5 of the Specific Plan.*
- *Policy 4.47 (TR-M): Create a street connection between Sango Court and the new residential area to the south and east when the Sango Court area redevelops for residential use.*
- *Policy 4.48 (TR-M): Provide street connections from residential and mixed use development on Montague Expressway to the park and residential neighborhoods within this subdistrict.*
- *Policy 4.49 (TR-M): Create street connections, bike connections, and pedestrian connections across the creek channel.*
- *Policy 4.50 (TR-M): Prevent cut-through traffic avoiding the Montague/Capitol intersection.*
- *Policy 4.51 (TR-M): Create a deep landscape setback along Trade Zone Boulevard to buffer residential uses from the office/R&D/industrial uses across the street in San Jose, and to provide an overall attractive street appearance.*
- *Policy 4.52 (TR-M): Access to private parking should be from local streets that do not abut a park.*
- *Policy 4.53 (TR-M): Provide 30 foot landscape setbacks with a double row of trees between the BART track and residential buildings.*
- *Policy 4.54 (TR-M): Provide very high-density residential near BART and light rail stations, served by a linear park along the drainage-way. Provide high-density residential development at the interior of the subdistricts, serviced by neighborhood parks with sports fields.*
- *Policy 4.58 (TR-M): Buildings fronting on Capitol Avenue must be designed to minimize impacts of traffic, noise and pollution on the residential units that face Capitol Avenue.*

CONCLUSION

The TASP EIR adequately evaluated the land use impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The City of Milpitas General Plan does not identify mineral resources within the Specific Plan area. Therefore, the 450 Montague Project has no new impact on mineral resources.

CONCLUSION

The TASP EIR adequately evaluated the mineral resource impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XII. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR found that the implementation of the Specific Plan would result in temporary and intermittent construction-related noise impacts (Impact 3.7-4) as well as long-term operational impacts from the increase in roadside noise levels (Impact 3.7-1) and the exposure of sensitive receptors to noise levels above the standards (Impact 3.7-2). The TASP EIR also found that due to the transit-oriented and mixed-use nature of the Specific Plan area, there would be exposure to groundborne noise and vibration from future BART activity (Impact 3.7-3). The TASP EIR cites General Plan and Specific Plan policies to ensure that these impacts are less than significant.

Traffic-related noise levels would increase on local roadways within the Specific Plan area. Significant noise impacts, as a result of traffic, are expected for segments of Great Mall Parkway and East Capitol Avenue, which are adjacent to the project site. Noise analysis conducted as part of the TASP EIR found that these segments would reach traffic specific noise level estimates of 70.4 dBA by 2030.¹⁷ In addition, peak-hour noise levels along Montague Expressway would expose future residents to noise levels of 65 to 70 dBA, placing the proposed project in an area considered “conditionally acceptable” per the land use noise compatibility guidelines of the City of Milpitas General Plan.¹⁸ Noise impacts to new multi-family residential or hotel development along these road segments would be mitigated to a less-than-significant level by policies in the General Plan and Specific Plan.

General Plan Policy 6-I-2 requires that projects within “conditionally acceptable” or “normally unacceptable” exterior noise exposure areas prepare a an acoustical analysis and implement measures to reduce noise to acceptable levels. A noise study was conducted on October 30, 2014 by Charles M. Salter and Associates for the 450 Montague Project, which analyzed noise from traffic and the VTA light-rail line that runs along East Capitol Avenue. The study found that current noise levels at the

¹⁷ Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008; Section 3.7-14. Table 3.7-4.

¹⁸ Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008; Section 3.7-23.

project site are at normally unacceptable levels.¹⁹ The study provides recommendations to reduce sound levels to acceptable levels, including the use of sound-rated assemblies for exterior façades, windows, and doors and the use of mechanical ventilation. Pursuant to General Plan Policy 6-I-2 and 6-I-4, the project must include measures identified in the noise study as well as Specific Plan policies to reduce sound levels to acceptable levels. A detailed analysis of the noise reduction requirements must be made as well as noise insulation features included in the design. Implementation of these actions would be required as a Condition of Approval for the proposed project.

The Santa Clara Valley's VTA's BART Extension SEIR²⁰ has developed specific mitigation measures to reduce future noise and vibration impacts as a result of the new BART extension project in Milpitas. Additional Specific Plan policies 5.13 and 5.14 also address these impacts.

The TASP EIR identifies temporary, short-term noise impacts as a result of construction activity that would occur intermittently during the implementation of the Specific Plan. The TASP EIR concludes that these impacts would be less than significant with implementation of several policies, including General Plan Policy 6-I-13 and Specific Plan Policy 5.15. As the 450 Montague project would be required to comply with the Specific Plan and General Plan policies, the project's construction would not result in additional noise impacts, beyond those analyzed in the TASP EIR.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

General Plan Policies

- Policy 6-G-1: Maintain land use compatibility with noise levels similar to those set by State guidelines.
- Policy 6-G-2: Minimize unnecessary, annoying, or injurious noise.
- Policy 6-I-2: Require an acoustical analysis for projects located within a “conditionally acceptable” or “normally unacceptable” exterior noise exposure area. Require mitigation measures to reduce noise to acceptable levels.
- Policy 6-I-3: Prohibit new construction where the exterior noise exposure is considered “clearly unacceptable” for the use proposed.
- Policy 6-I-4: Where actual or projected rear yard and exterior common open space noise exposure exceeds the “normally acceptable” levels for new single-family and multifamily residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels.

¹⁹ Charles M. Salter and Associates, 2014. *Due Diligence Environmental Noise Study 450 Montague Expressway*. October 30.

²⁰ Santa Clara Valley Transportation Authority, 2007. *Draft Supplemental EIR*, January; and *Final Supplemental EIR*, May.

- Policy 6-I-5: All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.
- Policy 6-I-6: Assist in enforcing compliance with noise emissions standards for all types of vehicles, established by the California Vehicle Code and by federal regulations, through coordination with the Milpitas Police Department, Santa Clara County Sheriff's Department, and the California Highway Patrol.
- Policy 6-I-9: Enforce the provisions of the City of Milpitas Noise Ordinance and the use of established truck routes.
- Policy 6-I-13: Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact. Include noise specifications in requests for bids and equipment information.

Specific Plan Policies

- *Policy 5.10: New development in the Transit Area shall adhere to the standards and guidelines in the Milpitas General Plan that govern noise levels. The particular policies of note are Policies 6-I-1 through 6-I-16.*
- *Policy 5.11: Construct masonry walls to buffer residential uses from BART and UPRR train tracks. These walls will be constructed by residential developers. They may be located within the landscaped buffer along the tracks*
- *Policy 5.13: Apply the FTA groundborne vibration criteria (presented in Table 5-5) as review criteria for development projects in the vicinity of vibration sources such as BART trains and heavy rail trains.*
- *Policy 5.14: Project applicants shall conduct a vibration impact analysis for any sites adjacent to or within 300 feet of active UPRR and BART alignments to demonstrate that interior vibration levels within all new residential development (single family and multifamily) and lodging facilities would be at acceptable levels. If needed, require mitigation measure to reduce vibration to acceptable levels.*
- *Policy 5.15: Prior to issuance of building permits, applicants shall demonstrate that noise exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance. Mitigation may include a combination of techniques that reduce noise generated at the source, increase the noise insulation of the receptor or increase the noise attenuation rate as noise travels from the source to the receptor.*
- *Policy 5.17: In all rental and sale agreements, provide disclosures to future residents about all surrounding industrial uses, including UPRR train tracks and operations, and permanent rights of such industrial uses to remain. Describe potential impacts including but not limited to: noise, groundborne and airborne vibration, odors, and use of hazardous materials.*
- *Policy 5.18: Day care facilities, schools, nursing homes, and other similar sensitive receptors shall be located away from sites which store or use hazardous materials, in accordance with State and City standards. Adequate buffers to protect occupants of these*

sensitive uses shall be provided, including but not limited to walls, fences, landscaping, large building setbacks, and additional exit routes over and above minimum code requirements.

- *Policy 5.19: Require the installation of temporary buffers—fences, walls, or vegetation—when residential uses are developed adjacent to existing industrial uses. The type of buffer must be reviewed and approved by the City Planning Department. The temporary buffers may be removed if and when an adjacent site is redeveloped as a non-industrial use.*

CONCLUSION

The TASP EIR, with incorporation as a Condition of Approval of the noise reduction measures identified in the project’s noise impact analysis, adequately covered the noise impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

Implementation of the Specific Plan would transform a predominantly industrial area by adding high intensity residential developments near transit to maximize transit ridership and to create a vibrant residential community that is in close proximity to jobs, parks and retail uses.

The TASP EIR evaluated potential environmental impacts associated with approximately 7,100 residential units and 18,000 new residents within the Specific Plan area. The TASP EIR assumes that the population growth is concentrated in this area and that the Specific Plan would increase the City’s

housing stock by 39 percent and its population by 28 percent based on 2006 estimates from the California Department of Finance.²¹

The TASP EIR concluded that the population and growth impacts associated with the Specific Plan are adequately addressed by the City’s Housing Element. Table 1 below includes the housing and population assumptions evaluated within the TASP EIR and also shows existing and proposed housing development within the Specific Plan area. As the population and housing units proposed by the project would fall within the total development anticipated by the TASP EIR, the project would result in no new impacts associated with population and housing.

Table 1: Existing and Proposed Housing Units and Population with the Specific Plan Area

	Evaluated Within The TASP EIR	Approved Units	Under Construction	450 Montague Project	Remaining Development Available
Housing Units	7,109 ^a	2,122	1,548	489	2,950
Population	17,915 ^a	5,348 ^b	3,901 ^b	1,233 ^b	7,443

^a Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008.

^b Estimated population of the associated approved units, under construction units, and the proposed project was determined by using the residents per unit evaluated within the TASP EIR (17,915 residents / 7,109 units = 2.52 residents per unit).

Source: LSA Associates, Inc., 2015.

APPLICABLE MITIGATIONS

No new mitigation measures are required.

CONCLUSION

The TASP EIR adequately evaluated the population and housing impacts of the 450 Montague Project.

²¹ Dyett and Bhatia, *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*, October 2007; and *Final Environmental Impact Report, Milpitas Transit Area Specific Plan*, May 2008.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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XIV. PUBLIC SERVICES.

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

i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The Specific Plan area contains portions of three school districts: the Milpitas Unified School District (MUSD), Berryessa Union School District, and East Side Union School District. The TASP EIR evaluated the impact that the Specific Plan’s anticipated 18,000 residents, and associated increase in expected student population, would have on the three school districts. The TASP EIR concluded that build-out of the Specific Plan will require at least one new elementary school within MUSD and the expansions of existing facilities. The TASP EIR identified a significant and unavoidable impact related to an increased demand for school facilities (Impact 3.9-1).

The project site falls within the Berryessa Union School District and the East Side Union School District attendance boundaries. Projected student enrollment rates associated with the build-out of the TASP are as follows: 233 students for East Side Union High School District and 330 students for Berryessa Union School District.²²

Due to the project’s location, school-aged children would be expected to attend Northwood Elementary and Morrill Middle School in the Berryessa Union School District.²³ Northwood Elementary has a

²² Dyett and Bhatia, 2008. *Milpitas Transit Area Specific Plan*, p. 3.9-8. May.

²³ Berryessa Union School District, 2015. Margot Sandoval, Administrative Assistant, Business Services. Written communication with LSA Associates. January 27.

current student enrollment of 446 and a capacity of 648.²⁴ The TASP identifies the elementary school student generation rate for the district as 0.046 students per unit.²⁵ As such, the proposed project would generate 22.5 new students that would attend Northwood Elementary. Morrill Middle School has a current enrollment of 730 students and a capacity of 1,024 students.²⁶ The TASP identifies the middle-school student generation rate to be 0.016 students per unit.²⁷ Based on this rate, the proposed project would generate 7.8 students that would attend Morrill Middle School. The number of elementary and middle-school students generated by the proposed project would be within the capacity range of these two schools.

High-school aged students would be expected to attend Independence High School in the East Side Union High School District.²⁸ Independence High School has a current enrollment of 3,126 students and a capacity to serve a total of 3,744 high school students.²⁹ The student generation rate for Independence High School is 0.078 students per multi-family housing unit.³⁰ Since the proposed project would develop 489 residential units, the expected number of high school-aged students generated from the proposed project would be 38.2, which is within the existing capacity of Independence High School.

Policies in the General Plan, Midtown Plan and Specific Plan would reduce the impact and include coordination with the school districts to update their comprehensive facilities plans, update school fees for developers, and consider joining use agreements for potential shared facilities; as well as applicant payment of school impact fees pursuant to State Government Code 65995 to 65998, which is a means of offsetting development's school impacts. As the above information illustrates, residential growth associated with implementation of the proposed project would fall within the growth parameters evaluated within the TASP EIR and the proposed project's impacts on schools have been adequately analyzed in the TASP EIR; as such, the project would not result in a new impact to school facilities.

The TASP EIR concluded that the fire department would need to expand an existing fire station and/or construct a new station, in addition to providing additional staff and equipment, to adequately serve the development associated with implementation of the Specific Plan (Impact 3.9-2). The TASP EIR noted that under the National Fire Protection Association (NFPA) standard of one firefighter per 1,000 residents, 18 new firefighters would be needed. Policies contained in the Milpitas General Plan and the Specific Plan would help to ensure that even with new development anticipated in the Specific Plan, Milpitas Fire Department response times remain consistent with National Fire Protection Association Standard 1710. Given this, less-than-significant impacts to the provision of

²⁴ Berryessa Union School District, 2015. Margot Sandoval, Administrative Assistant, Business Services. Written communication with LSA Associates. February 26.

²⁵ Dyett and Bhatia, 2008. *Milpitas Transit Area Specific Plan*, p. 3.9-7. May.

²⁶ Berryessa Union School District, 2015, op. cit.

²⁷ Ibid.

²⁸ East Side Union High School District, 2015. Marcus Battle, Associate Superintendent. Written communication with LSA Associates. January 28.

²⁹ Ibid.

³⁰ Ibid.

fire services are anticipated. As the population and housing units proposed by the project would fall within the total development anticipated by the TASP EIR, the project would result in no new impacts associated with fire services.

As noted in the TASP EIR, implementation of the Specific Plan would increase the long-term demand for police assistance and new staff and equipment would be required (Impact 3.9-3); however, a new police station would not be warranted. An addition of 26.3 police officers would be needed to service the Specific Plan's increase in population. Policy 6.45 of the Specific Plan would ensure that there are adequate police services in place to serve the Specific Plan area, including the proposed project. As such, the TASP EIR concluded that the impacts to police services would be less than significant. The 450 Montague Project also adheres to policies in the Specific and General Plan, and because the population and housing units proposed by the project would fall within the total development anticipated by the TASP EIR, the project would result in no new impacts associated with fire services.

The TASP EIR concluded that the combination of Parks/Plazas and Linear Parks meets the expected park requirements for the Planning Area given the anticipated population associated with implementation of the Specific Plan. All land shown in the Specific Plan as parks or landscape buffers with trails must be dedicated as public parks to meet the requirements (or an equivalent amount of land if park locations are adjusted). The TASP EIR concludes that the impacts to parks would be less than significant because of various policies regarding open space requirements, park land dedication and in-lieu fees for new development. The Specific Plan also provides numerous policies related to parks which are incorporated into the Parks and Recreation section (Section XV, Recreation) of this checklist. The 450 Montague project would comply with all applicable policies regarding the provision and design of open space and parks, and would include the provision of two parks on site, connection to the new trail along Penitencia Creek. Additionally, the proposed project would install a decomposed granite trail over the existing maintenance road along the creek in efforts to support Policy 3.54 of the Specific Plan, which is focused on developing a network of public trails along Penitencia Creek.

The TASP EIR adequately evaluates public service impacts and the proposed project's impacts are adequately included in and analyzed by the TASP EIR. Therefore, the 450 Montague Project has no new impact on public services.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

General Plan Policies

- Policy 2.c-I-1: Continue working with Milpitas Unified School District (MUSD), Berryessa Union High School District, and East Side Union School District in its update of the comprehensive facilities plan and to ensure adequate provision of school facilities.
- Policy 2.c-I-3: Work with MUSD, Berryessa Union High School District, and East Side Union School District to monitor statutory changes and modify school fees when necessary

to comply with statutory changes. Following this policy will permit the MUSD to update school fees for developers to cover the cost of constructing a new school and expanding Milpitas High School.

- Policy 5.c-I-1 Maintain a response time of four minutes or less for all urban service areas.

Midtown Specific Plan Policies

- *Policy 6.20: Coordinate with the school districts in planning for adequate public school facilities.*

Specific Plan Policies

- *Policy 6.46: Coordinate with the affected school districts on facilities needed to accommodate new students and define actions the City can take to assist or support them in their efforts.*
- *Policy 6.44: The City will ensure that all school impact fees are paid from individual projects prior to the issuance of any building permits.*
- *Policy 6.44: The City and the school districts located in the Transit Area should consider entering into a joint use agreement, allowing public use of a new school's playfields when not in use by students, and public use of rooms in the school building for community meetings and events. Any new school site should include outdoor active recreation facilities, which would be counted toward the Transit Area's public parks requirement. The school building should include facilities that can be accessed and used for community events.*
- *Policy 6.50: The Fire Department shall conduct a "standards of cover" analysis to determine the Transit Plan's precise impact on the department's staffing and equipment, and any required facility needs. Identify and evaluate potential sites for an expanded or new fire station near the Transit Area if the standards of cover analysis determines it is warranted.*
- *Policy 6.51: Additional fire department staff will be hired, equipment purchased, and facilities built to provide an adequate level of service—as determined by City Council—for the residents, workers, and visitors of the Transit Area. New equipment and facilities shall be funded by the Community Facilities District fee and new staff paid from the City's General Fund. These facilities are not expected to be sited within the Transit Area.*
- *Policy 6.52: If a new fire station is built to meet the service needs of the Transit Area, it must be sited and developed in such a way to not create substantial adverse physical impacts or significant environmental impacts. The new station should be chosen to minimize noise and traffic impacts on existing land uses.*
- *Policy 6.53: The Fire Department shall update the City's emergency and disaster response plans to take the location and type of new development, and future traffic levels, into account.*
- *Policy 5.3: All streets (public & private) shall be consistent with the street sections in Chapter 5 [of the proposed Plan] and shall meet any additional Milpitas Fire Department fire apparatus design requirements for access and firefighting operations.*

CONCLUSION

The TASP EIR adequately evaluated the public service impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

Public parks identified in the Specific Plan have three main forms: Parks/Plazas, Linear Parks, and Landscape Buffers. The TASP EIR concluded that the combination of Parks/Plazas and Linear Parks would meet the expected park requirements for the Specific Plan area given the anticipated population at full implementation of the Specific Plan. All land shown in the Plan as parks or landscape buffers with trails must be dedicated as public parks to meet the requirements (or an equivalent amount of land if the park locations are adjusted), and recreation impacts would be considered less than significant.

The proposed project would include approximately 86,648 square feet (approximately 1.99 acres) of open space on the site, including two interior courtyards and two interior parks. The majority of the units would have private open space in the form of balconies. However, 16 percent of the podium apartment units would not have balconies (mostly studio and one-bedroom units) due to overall unit size and proximity to noise from a major arterial. The podium building would provide additional open space via two courtyards and a sky deck. There would be two parks (Park A and Park B) within the development, totaling 1.48 acres that would serve as open space and transition areas between the housing types. The project would include two trails for future residents. One trail (Park B extension) would be located between Building 14 and Building 15 and would connect Park B to Linear Park and other local trails and parks in the area. Another trail (Linear Park) would include a 0.49-acre linear park adjacent and parallel to Penitencia Creek on the southern boundary of the project site. In addition, the proposed project would install a decomposed granite trail over the existing maintenance road along the creek in efforts to support the development of public trails along Lower Penitencia

Creek. The City's Parks, Recreation and Cultural Resources Commission would review the proposed park layout and design prior to submitting the project to the City Council for approval.

The TASP EIR adequately evaluated the environmental impacts associated with implementation of the Specific Plan, including parks and recreation impacts. Development of the proposed project would fall within the development assumptions evaluated within the TASP EIR. Therefore, the proposed project has no new impact on parks and recreation.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

Midtown Plan Policies

- *Policy 3.24: Require new residential development to provide public parks at a ratio of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.*
- *Policy 3.26: Encourage new or expanding office and public/quasi-public uses to provide publicly accessible outdoor open spaces (plazas, gardens, arcades) as a part of new development. Ensure that open spaces are linked to sidewalks and pedestrian paths.*

Specific Plan Policies

- *Policy 3.38: The open space requirements of the Midtown Milpitas Specific Plan (Policy 3.24) shall apply to the entire area of the Transit Area Specific Plan. Parks are required at a ratio of 3.5 acres per 1,000 people, with at least 2.0 of those acres publicly accessible. Land dedicated for public parks or trails shall fulfill the park land requirements. In addition, 20 percent of a landscape buffer area along a street or public right of way may count towards the public park requirements, when it includes trails or wide sidewalks connected to an overall pedestrian/bike circulation network.*
- *Policy 3.39: Develop between 32 and 47 acres of public park space in the Transit Area, with a goal of around 36 acres. This target is based on the Midtown Milpitas Specific Plan's parks standard of 2.0 acres of public park land per 1,000 residents, applied against the minimum and maximum population expected in the Transit Area. The 36 acre goal, which includes parks, plazas and linear parks, is generated from the Transit Area's expected final population.*
- *Policy 3.40: Locate and size parks as shown on Figure 3-6, Parks, Public Spaces, and Trails [of the Specific Plan]. Minor adjustments to the location of parks may be necessary to facilitate a better site plan, respond to site specific constraints, or to accommodate phasing of a project. Smaller parks may be combined to form a larger neighborhood park within the same subdistrict as long as there is no reduction in park area. Complete elimination or relocation of a park outside of a subdistrict requires an amendment to the Specific Plan. If a school is located on a site designated as a park, it may be counted as a park if a joint use agreement is established to allow public use of open space and buildings*

for recreation purposes after school hours and on weekends. If no such joint use agreement is established, an alternative park site shall be designated.

- *Policy 3.41: Park land dedication and in-lieu fees required of new development. Park land shall be dedicated as part of the approval of any new development, if a park site is designated on the property as shown in Figure 3-6 [of the Specific Plan]. Land dedication is required for Parks/Plazas/Community Facilities and Linear Parks and Trails in the locations and amounts shown on Figure 3-6 [of the Specific Plan].*

Dedication of the land shown on Figure 3-6 cannot be substituted by in-lieu fees. If a development's parkland obligation as determined by City ordinances is not satisfied by the require land dedication, it must pay an in-lieu fee which shall be spent to acquire and develop other parks within the Transit Area. If a development provides more than its fair share of park land, it will be compensated by the City at fair market value, using in-lieu fees paid by new development and other available sources.

- *Policy 3.42: If a public utility easement (such as the one existing between Capitol Avenue and Penitencia Creek East Channel) is developed as a publicly-accessible pathway or linear park that connects two public streets, it can be counted toward a development's park dedication requirement.*
- *Policy 3.43: New development must pay for the construction of public parks and streets surrounding the parks (or half-streets if bordering an adjacent development site). In addition to dedicating or contributing toward the land for new public parks, projects under this Specific Plan must also pay for the improvement of the parks with appropriate landscaping and recreation facilities. Covering this cost can be handled by paying a fee to the City or by direct development of parkland, or both. The cost and/or actions expected of projects will be determined by the City.*
- *Policy 3.44: The design and programming of new parks must be approved by the City's Parks and Recreation Department.*
- *Policy 3.45: Private development within the Transit Area must meet the private open space requirements on a project-by-project basis.*
- *Policy 3.48: The park along the Penitencia Creek East Channel shall provide a pedestrian path along the creek; BBQ's; a tot lot; open space areas for frisbee and similar informal recreation, and other passive recreation facilities.*
- *Policy 3.50: The park in the center of the Trade Zone/Montague subdistrict shall provide sports fields for soccer, baseball, basketball, and/or other sports that have a high demand in Milpitas. There shall be ample perimeter landscaping to create an attractive setting for the surrounding housing; and a tot lot shall be included. A community center could also be included. Sports fields should serve both children and adult sports leagues.*
- *Policy 3.51: Parks will have public streets abutting at least three sides. Parks shall be surrounded by streets on three sides in order to: provide parking for the park on the street; enhance security of the park by having residents overlook the park and police vehicles able to drive by; and provide noise and visual separation for residents and offices from the activities in the park. If approved by the City, a park can also have public streets on two sides and a public right-of-way, such as a trail, or a railroad right-of-way along the third side.*

- *Policy 3.54: Include a network of trails along Penitencia Creek and railroad right of ways. These bike/pedestrian trails will connect into the citywide trail network, pedestrian overcrossings of expressways, and the Transit Area's continuous network of bike lanes. They will be located on both sides of Lower Penitencia Creek and on the east side of the Union Pacific railroad tracks that run between Main Street and McCandless Drive.*
- *Policy 3.55: Complete a Trail Loop connecting the whole Transit Area. The trail loop goes from McCandless Drive and Lower Penitencia Creek; along Penitencia Creek East Channel, across Montague Expressway, west along the creek channel, then northeast across Capitol Avenue, then across Montague Expressway, along Piper Drive, and across the Great Mall back to Centre Point and McCandless. It is shown on Figure 3-6 [of the Specific Plan].*
- *The Trail Loop provides a clear and easy way for people to access the BART and LRT station, move between different subareas of the Transit Area, and offers a roughly 1.5 to 2 mile jogging and walking and biking path for recreational use.*
- *Policy 3.56: Connections shall be created across Montague Expressway with overhead bridges or undercrossings to create a continuous trail network; allow pedestrians and bicyclists to cross safely; and connect neighborhoods, schools, and parks. One connection will be where the Penitencia Creek East Channel crosses Montague, via ramps in the creek channel area or on adjacent park land, and another will be at Piper Drive, connected to the BART station, with elevators at both ends.*
- *Policy 3.57: All properties along the trail network will need to set aside land for the trails. This land will count towards the required public park land dedication requirement. Refer to Figure 3-7 [of the Specific Plan] for required dimensions. If trail easements already exist or are acquired within the rail line or flood control right of way, these easements may be used in lieu of land on development sites.*

CONCLUSION

The TASP EIR adequately evaluated the recreation impacts of the 450 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted polices, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION

The TASP EIR concluded that the build-out of the Specific Plan would result in significant changes in transportation patterns and use. Implementation of the Specific Plan would have significant near-term impacts to 15 key intersections, four freeways systems, and to existing bicycle, pedestrian and transit facilities (Impacts 3.3-1 through 3.3-21). The TASP EIR found that year 2030 impacts would occur at the majority of roadway segments within the Specific Plan area. The TASP EIR states that while compliance with Specific Plan policies would reduce impacts to less-than-significant levels, there will still be significant and unavoidable impacts for key intersections, freeways and roadway segments.

The TASP EIR identified intersections in the Specific Plan area that would have traffic that would exceed existing standards. Specific Plan policies require developers to pay two new traffic impact fees, one for the City and one for the County. Payment of the traffic impact fees would contribute funding towards road improvements to alleviate traffic related impacts; however, intersections that cannot widen lanes would result in significant and unavoidable impacts. In particular, relative to the proposed 450 Montague Project, the following three intersections would have level-of-service (LOS)

conditions that would be significant and unavoidable: 1) the intersection of the Great Mall Parkway and East Capitol Avenue and Montague Expressway; 2) the intersection of Montague Expressway and McCandless Drive/Trade Zone Boulevard; and 3) the intersection of Montague Expressway and Milpitas Boulevard. The City proposes an extension of Milpitas Boulevard as part of VTA's BART Extension project between Montague Expressway and East Capitol Avenue to partially mitigate this impact. However, the TASP EIR found that feasible mitigation measures are not available to reduce impacts at these intersections to less-than-significant levels.

The TASP EIR found that build-out of the Specific Plan would exacerbate unacceptable operations for four freeway segments and multiple roadway segments, making the impacts significant and unavoidable despite the numerous freeway and roadway improvements that are planned for the area.

The TASP EIR concluded that the Specific Plan area is deficient in sidewalks and bicycle paths (Impact 3.3-19) and therefore will not meet the future demand associated with high-density residential housing. Specific Plan policies 3.15, 3.28 and 3.29 are designed to reduce this impact to less than significant, and require the development of sufficient pedestrian and bicycle facilities and pathways that are consistent with TASP circulation standards.

Increased vehicle trips from new residential development could be reduced with use of public transportation including the new Bart line extension and existing use of the VTA light rail system. The TASP EIR concluded that the VTA would likely adjust the transit schedule and frequency to accommodate future demand. Specific Plan policy 3.32 would reduce this impact to a less-than-significant level.

The TASP EIR concluded that the mix of proposed land uses in the Specific Plan reduces the amount of vehicle trips by providing opportunities for residents to link trips, including walking and biking to destinations in lieu of driving, thereby reducing parking demand. However, a Court of Appeals decision held that parking is not part of the permanent physical environment, and that parking conditions change over time as people change their travel patterns. Therefore, unmet parking demand created by a project need not be considered a significant environmental effect under CEQA unless it would cause significant secondary effects. The development of residential units adjacent to transit and employment could reduce vehicle use and parking demand, and the project provides parking for the residential units. The TASP EIR found the impacts to parking would be less than significant.

Hexagon Transportation Consultants, Inc. conducted a traffic analysis for the proposed project in December 2014. The report includes an analysis of the project's two proposed driveways as well as the nearby intersections of Montague Expressway/Great Mall Parkway/Capitol Avenue and the future Capitol Avenue/Milpitas Boulevard extension. The results of the analysis determined that the proposed project would generate an estimated total of 3,107 daily trips, with 243 trips occurring during the AM peak hour and 289 trips occurring during the PM peak hour period.³¹ This trip generation estimate does not include any deductions for public transit usage on the adjacent light rail system.

³¹ Hexagon Transportation Consultants, Inc. 2014. *400 & 450 Montague Expressway Traffic Operations, Milpitas, CA*. December 24.

In addition, the results of the analysis concluded that the proposed project driveways would not cause significant operational problems on Montague Expressway or Capitol Avenue under near term conditions. The signalized intersection of Montague Expressway and Great Mall Parkways currently operates at LOS E during the AM peak hour and LOS F during the PM peak hour. The proposed driveway on Montague Expressway is expected to operate at LOS A during the AM peak hour and LOS C during the PM peak hour. The analysis concluded that no adverse impacts to traffic flow on Montague Expressway as a result of this proposed driveway.³² However, the report notes that if the driveway is moved further east on Montague Expressway, the level of service could degrade because eastbound traffic queues on Montague Expressway could block the driveway during peak hours. The temporary driveway proposed on East Capitol Avenue would operate at LOS A during the AM peak hour and LOS E during the PM peak hour. The poor LOS during the PM commute period is due to heavy southbound traffic on Capitol Avenue. The analysis notes that while southbound vehicle queues could block the temporary driveway on Capitol Avenue during the PM commute period, it is not usual to occur at properties located adjacent to major arterial streets. Therefore, the analysis concluded that there would be adequate gaps for project traffic to enter the traffic stream after the adjacent queues clear.³³

Hexagon also conducted a Sight Distance Analysis and concluded that the sight distance provided by the proposed driveways would comply with Caltrans Highway Design Manual (HDM) standards. Sight distance at the existing driveway on Montague Expressway is currently obscured by a monument sign for the adjacent office building and also by a utility pole that is within 100 feet west of the existing driveway. The report noted that the signage would be removed as part of the proposed project and the fact that drivers could see around the pole for at least 715 feet along Montague Expressway. As such, the analysis concluded that the proposed driveway on Montague Expressway complies with HDM standards. The report also determined that the sight distance for the temporary driveway on Capitol Avenue was also in excess of 605 feet, which is in compliance with HDM standards.³⁴

Since development of 450 Montague Project falls within the development parameters anticipated in the Specific Plan and evaluated in the TASP EIR, there are no new transportation impacts associated with the proposed project. Moreover, the 450 Montague Project would be required to comply with all policies within the Specific Plan and the applicant would be required to pay the TASP Mitigation Fee of approximately \$32,781 per unit and the CFD Maximum Annual Special Tax Rate of \$559.86 per market-rate unit which would be used for circulation improvements. These fees are updated annually.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

³² Ibid.

³³ Ibid.

³⁴ Ibid.

Specific Plan Policies

- *Policy 3.12: Preserve adequate right-of-way along Capitol Avenue, Great Mall Parkway, and Montague Expressway to accommodate future regional roadway improvements. Final dimensions of right-of-way acquisition are not yet known. The detailed street sections in Chapter 5 [of the Specific Plan] include notes about right-of-way acquisition, to the extent that information is currently available.*
- *Policy 3.15: Review individual development applications to ensure that adequate street right-of-way, bicycle facilities, pedestrian facilities and landscaping are provided and are consistent with the Transit Area Plan circulation policies and street design standards in Chapter 5 [of the Specific Plan].*
- *Policy 3.16: Establish and implement a travel demand management (TDM) program in order to encourage alternate modes of travel and thereby reduce automobile trips. Establish a funding mechanism to pay for the costs of the program, including the cost of a transportation coordinator to administer the program. The program would include a ride-matching program, coordination with regional ride-sharing organizations, and provision of transit information; and could also include sale of discounted transit passes and provision of shuttle service to major destinations.*
- *Policy 3.17: New streets shall be located as generally shown on the Street System Map, Figure 3-2.*
- *Policy 3.18: New development must dedicate land for new public streets and pay for their construction.*
- *Policy 3.21: Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.*
- *Policy 3.22: Private development shall provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.*
- *Policy 3.28: Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the Specific Plan]. Gaps exist on Capitol Avenue between Montague Expressway and Trimble Road, and on Trade Zone Boulevard between Montague Expressway and Lundy Place. Capitol Avenue only needs to be re-striped to add a bike lane. Trade Zone Boulevard generally contains sufficient width to accommodate two travel lanes and bike lanes in each direction; however, the westbound lanes on Trade Zone jog south slightly, so right-of-way acquisition will likely be required to push the curb further north to maintain a consistent section and to add bike lanes. Bike routes should be upgraded to bike lanes as part of any Montague widening project.*
- *Policy 3.29: A Class III bicycle route shall be created on the internal roadways (from the Milpitas Boulevard Extension/Capitol Avenue intersection to Tarob Court) to provide a continuous bicycle connection between Milpitas Boulevard and the existing bicycle lanes on Lundy Street, as indicated on Figure 3-5 [of the Specific Plan].*
- *Policy 3.32: Coordinate with VTA to provide sufficient amenities (such as transit shelters) at all transit stops within the Transit Area.*

- *Policy 6.32: The City shall establish and assess a transportation impact fee program, known as the Regional Traffic Fee, to contribute toward traffic improvements to be undertaken in whole or in part by the County of Santa Clara or City of San Jose. This fee will go toward the East/West Corridor Study, Montague Expressway Widening project, and Calaveras Boulevard (SR 237) Overpass Widening project, as well as other local and regional improvements.*
- *Policy 6.33: The City shall establish and assess a transportation impact fee program to provide improvements to mitigate future traffic operations on the roadway segments within the City of Milpitas. All projects within the Transit Area Plan will be required to pay this fee.*
- *Policy 6.34: The new traffic impact fee program should include fair-share payments toward the following improvement: At the West Calaveras Boulevard/I-880 northbound ramps, convert the northbound center left turn lane to a shared left-turn/right-turn lane. The City of Milpitas will coordinate with Caltrans to implement this improvement.*
- *Policy 6.35: The new traffic impact fee program should include fair-share payments toward the following improvement: At the intersection of Tasman Drive/McCarthy Boulevard, the southbound (McCarthy Boulevard) shared through/right-turn lane will be converted to an exclusive right-turn lane with overlap signal phasing. The southbound right-turn will have a green arrow and enter the intersection at the same time as the eastbound left-turn movement. Eastbound left-turns will be prohibited. The City of Milpitas will implement this improvement.*
- *Policy 6.36: The new traffic impact fee program should include fair-share payments toward the following improvement: Coordinate the traffic signals at the Tasman Drive / I-880 southbound ramps and the Great Mall Parkway/I-880 northbound ramps with one another as well as adjacent intersections, particularly Tasman Drive/Alder Drive, in order to improve operations in the Great Mall Parkway/Tasman Drive corridor north of the Transit Area. The City of Milpitas will coordinate with Caltrans to implement this improvement.*

CONCLUSION

The TASP EIR adequately evaluated the transportation impacts of the 450 Montague Project. The proposed project would be required to comply with Specific Plan policies related to transportation including the traffic impact fees and City of Milpitas 2008 CFD (TASP area) tax rates.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, State, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION:

The TASP EIR concluded that development associated with implementation of the Specific Plan would result in less-than-significant impacts on utilities and services systems, including water supply, wastewater treatment, stormwater drainage and solid waste disposal. The TASP EIR anticipates impacts related to additional demand for water, sewer flow capacity, and recycled water lines (Impacts 3.11-1, 3.11-2, 3.11-3, 3.11-4, 3.11-5, and 3.11-6). Policies are included in the Specific Plan that address these impacts and include the installation of additional pipes, water efficiency measures and the purchase of water and sewer treatment capacity as needed. The TASP EIR also describes how the Specific Plan area is already developed and therefore will require upgrading of existing infrastructure in lieu of adding new infrastructure.

The TASP EIR describes how the transition from industrial to high density residential in the Specific Plan area will decrease the amount of stormwater runoff. The Specific Plan area would add more landscaping and the amount of impervious surface area over time will actually decrease, resulting in less stormwater runoff in the area. Therefore, implementation of the Specific Plan would not require any storm drain improvements.

The TASP EIR concluded that there would be a substantial increase in water demand as a result of the build-out of the Specific Plan -- average daily demand would be 2.65 mgd in comparison to the City's 2002 Master Water Plan prediction of 1.55 mgd (Impact 3.11-1). This increase in demand for water would require improvements to existing water infrastructure both in the Specific Plan area and affected pressure zones. The capacity of the existing turnout delivering water from the Santa Clara Valley Water District (SCVWD) system could be exceeded during peak hours of demand. As such, an additional 20-inch turnout would be needed to supply the additional water needed to the Specific Plan area which would eliminate the need for any pipeline improvements in the SCVWD pressure zones. The Specific Plan includes additional policies that would ensure that impacts to the provision of water would be less than significant.

The TASP EIR found that additional allotments of water needed to serve new growth (Impact 3.11-2) would be approximately 1.0 mgd, and that this increase would be offset by the supplies available from the SCVWD. During droughts, the City has the ability to run emergency wells and increase the use of recycled water to offset potable water demand. The Specific Plan includes numerous policies that would provide additional water supply allocations, including the use of recycled water.

The TASP EIR determined that sewer flow capacity as a result of the build-out of the Specific Plan would exceed the capacity planned for in the City's Sewer Master Plan (Impact 3.11-3) by a total of 2.20 mgd over 2007 conditions. This increased demand for capacity would require extensive improvements to the sewer pipelines within the Specific Plan area. Policies in the Specific Plan would reduce the impact to less than significant. In addition, the TASP EIR found that no improvements are needed for the City's Main Pump Station, as wet weather flow is not expected to exceed capacity.

The TASP EIR found that citywide cumulative wastewater generation would exceed the City's current WPCP capacity rights and would be considered cumulatively considerable (Impact 3.11-4). Policies in the Specific Plan are in place that would help meet wastewater treatment capacity demands, including the purchase of additional treatment plant capacity from the cities of San Jose and Santa Clara, the owners of the WPCP. This additional capacity would enable the City to meet the cumulative wastewater treatment demands generated by cumulative growth and development throughout the City, including the net increase in demand attributable to the Specific Plan area. However, the City's need to acquire an additional 1.0 mgd of WPCP capacity is based on the ability to serve all planned growth and development within the City. The need for this additional WPCP capacity will not be triggered until such time in the future when full General Plan build-out and Transit Area Specific Plan build-out is realized.

The TASP EIR found that the build-out of the Specific Plan would generate approximately 2.20 mgd of additional sewage flows above current levels and, when added to the existing wastewater disposal rate at the WPCP, it would be below the RWQCB trigger threshold of 120 mgd. Therefore the Specific Plan estimated sewage flow would be considered less than significant. However, the RWQCB has specific requirements designed to off-set cumulative regional increases in sewer flows

and discharge into the San Francisco Bay, primarily through water recycling and water conservation. The TASP EIR concluded that the amount of recycled water demand associated with the Specific Plan is not sufficient to fully offset the increased sewer flows and discharge into the Bay. Specific Plan policies 6.16, 6.17 and 6.20 are designed to reduce this impact to a less-than-significant level.

The TASP EIR concluded that new mainlines for water recycling would need to be installed and would have a less than significant impact because they would be installed on existing and proposed roads.

The increase in residential density under the Specific Plan would cause an increase in the amount of solid waste generation by approximately 7,400 pounds per day. The TASP EIR concludes that policies to implement recycling programs as well as solid waste source and reduction programs would reduce the impacts to less than significant. The City is also required to negotiate new agreements to handle long-term solid waste disposal after closure of the Newby landfill in 2023, which would also reduce the impact to a less-than-significant level.

Since the TASP EIR adequately addresses utilities and service systems, and the development associated with the 450 Montague Project's falls within the development assumptions evaluated in the TASP EIR, the proposed project has no new impact on utilities and public services. In addition, the 450 Montague Project must comply with the Municipal Code requirements and Conditions of Approval identified by the City related to utilities and service systems, including water supply, water easement, sewer, storm drainage, solid waste and property management.

APPLICABLE MITIGATION MEASURES

No new mitigation measures are required.

APPLICABLE POLICIES

Specific Plan Policies

- *Policy 6.22: Upgrade and expand the water distribution system such that it will be adequate to serve new development in the Transit Area.*
- *Policy 6.13: Provide water supply for the Transit Area from the Santa Clara Valley Water District per the Water Supply Assessment.*
- *Policy 6.17: The City of Milpitas will require that water saving devices, as required by the California Plumbing Code, be installed in all residential, commercial, industrial and institutional facilities within the Transit Area. Such devices are capable of reducing the amount of water used indoors, resulting in substantial wastewater flow reductions.*
- *Policy 6.18: Construct recycled water mains along Great Mall Parkway, Capitol Avenue, as Montague Expressway, Sango Court, and into the Piper/Montague subdistrict, as shown in Figure 6-3 [of the Specific Plan].*
- *Policy 6.19: Per the Midtown Specific Plan, require new development to include recycled water lines for irrigation.*

- *Policy 6.21: Require existing irrigation users to convert to recycled water when it becomes available.*
- *Policy 6.9: The City of Milpitas will implement improvements to the Main Sewage Pump Station and the force mains which convey flows to the WPCP in general accordance with those improvements identified in the “Functionality and Operation Report” as prepared for the City by Winzler & Kelly Engineers, November 2005.*
- *Policy 6.10: The City of Milpitas will acquire up to 1.0 mgd of wastewater treatment capacity at the WPCP if necessary. The final amount to be acquired, if any, and the timing of the acquisition will be based on studies of actual usage and the pace of development in the city. The City shall monitor the increase in actual sewage flows and the amount of new development approved on an annual basis to determine when additional capacity is required.*
- *Policy 6.16: Reduce water consumption through a program of water conservation measures, such as use of recycled water, water-saving features, and drought-tolerant landscaping.*
- *Policy 6.20: The City of Milpitas will require that recycled water be used to irrigate all parks, plazas, community facilities, linear parks, landscaped front yards and buffer zones. Recycled water may also be used for landscape irrigation on vegetated setbacks and private common areas. The City shall also require, where reasonable and feasible, that commercial uses, schools and non-residential mixed use developments be provided with dual plumbing to enable indoor recycled water use for non-potable uses to the extent feasible.*
- *Policy 6.23: All new development shall participate to the maximum extent practical in solid waste source reduction and diversion programs.*
- *Policy 6.24: Before the expiration of its current waste disposal contract, the City shall negotiate new agreements to handle the long-term disposal of its solid waste past the closure of the Newby Island Sanitary Landfill.*

Midtown Specific Plan Policies

- *Policy 6.17 Implement existing recycling programs in the Midtown Area.*
- *Policy 6.18 Promote recycling of demolition and construction debris*

CONCLUSION

The TASP EIR adequately evaluated the utilities and service system impacts of the 450 Montague Project. In addition, the 450 Montague Project must comply with the Municipal Code requirements and Conditions of Approval identified by the City related to utilities and service systems, including water supply, water easement, sewer, storm drainage, solid waste and property management.

REPORT PREPARATION

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APPENDIX A

CAP Development Checklist

(Appendix C of the Milpitas Climate Action Plan)

Appendix C: Development Checklist

DEVELOPMENT CHECKLIST

The following checklist has been developed to assist project applicants and City staff to determine whether a proposed project complies with the Climate Action Plan.

If the proposed project's expected GHG emissions were not considered in the GHG emissions 2020 and 2035 forecast included in **Appendix A** of the CAP, this checklist is provided for informational use but may not preclude preparation of separate GHG analysis for the project. Examples of projects that may not be incorporated into the City's forecast include stationary source emissions regulated by the Bay Area Air Quality Management District, General Plan amendments, new specific plans that exceed the City's proposed population and job growth forecasts, and GHG emissions used in specific manufacturing processes that are not easily tracked at a community-wide level.

PROJECT DESCRIPTION/CHARACTERISTICS

Please identify the applicable land uses included in the proposed project and provide a brief description of the proposed project (or the project description to be used for the associated environmental document).

Identify the applicable land uses:

Residential Commercial Industrial Manufacturing Other

Project Description:

The project is located at 400 and 450 Montague and consists of 351 units of rental apartment homes, 138 for sale stacked flats, approx. 10,000 sf of non-residential space, and multiple public parks across approximately 10 acres. The project will be located across the street from the new Milpitas BART station.

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AMENDMENTS REQUESTED

Does the project require an amendment to any of the following planning documents?

- General Plan: Yes No Not Sure
- Midtown Specific Plan: Yes No Not Sure
- Transit Area Specific Plan: Yes No Not Sure

GHG EMISSIONS INCORPORATED WITHIN CITY GHG FORECAST

Was this project, and its potential GHG emissions sources, considered in the City's GHG inventory and forecast?

- Yes No To be determined by staff

PROJECT SOURCES OF GHG EMISSIONS CONSIDERED IN CITY INVENTORY

Identify the activities and sources of GHG emissions anticipated by the proposed project during either the construction or operational phases of the project.

Potential GHG Emissions Sources:		
<input checked="" type="checkbox"/> Electricity Use	<input checked="" type="checkbox"/> Res./Comm./Ind. Waste	<input checked="" type="checkbox"/> Gasoline or Diesel Use
<input checked="" type="checkbox"/> Natural Gas Use	<input checked="" type="checkbox"/> Wastewater Disposal	<input checked="" type="checkbox"/> Transportation (On-Road)
<input checked="" type="checkbox"/> Const. & Demolition Waste	<input checked="" type="checkbox"/> Water Use	<input checked="" type="checkbox"/> Off-Road Equipment
<input type="checkbox"/> Other _____		

APPLICABLE MEASURES/COMPLIANCE

Identify in the checklist below the applicable measures that will be implemented as part of the proposed project to demonstrate consistency with the City's Climate Action Plan.

Required Measures

This list includes measures and actions included in the CAP that are (1) required to be included in the project design and implementation and (2) currently being implemented by the City. By following these two conditions and meeting the requirements identified below, the project demonstrates consistency with the CAP. As the City implements additional CAP measures, they will be added to this list.

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Measure	Action	Applicability	Compliance*
Waste reduction			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
New multi-family development			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Bikeways master plan			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Municipal solar power purchase agreement			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Water conservation			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Recycled water			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Green building			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

** All measures that are considered applicable on this list are required to be implemented in order to demonstrate consistency with the CAP.*

RECOMMENDED MEASURES

This list includes measures and actions identified in the CAP, or programs and regulations that have yet to be adopted by the City, which would apply to a project of this type. These measures should be included in the project design as feasible and, once implemented or adopted by the City, be included in the list of required measures above.

Measure	Action	Applicability	Compliance*
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

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Measure	Action	Applicability	Compliance*
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

** All measures considered applicable on this list should be considered for implementation in order to demonstrate consistency with the CAP.*

OTHER GHG REDUCTION MEASURES IMPLEMENTED

List and describe any additional measures that this project will incorporate to reduce GHG emissions that are not included in the CAP. If available, provide the estimated GHG reductions that would occur on an annual basis from implementing the measure, in MTCO_{2e}.

Additional Measure	Estimated Annual GHG Reductions (MTCO _{2e})
Project is located across the street from a VTA light rail station and the new Milpitas BART station. The project's location will reduce vehicle miles travelled for the project's residents	TBD