



MILPITAS PLANNING COMMISSION STAFF REPORT

March 25, 2015

APPLICATION: **LENNAR 450 MONTAGUE – 450 Montague – Site Development Permit No. SD14-0017, Conditional Use Permit UP14-0024, and Vesting Tentative Map No. MT14-0004 - A request to allow development of 489 dwelling units on 10.47 acres (46.7 dwellings/acre) with 351 Units in one five story building with amenities located over the centralized garage and 138 units in stacked flat units with associated on-site parking and landscaping.**

RECOMMENDATION: **Staff recommends that the Planning Commission Conduct a Public Hearing and adopt Resolution No. 15-003 Recommending the City Council Approve Site Development Permit No. SD14-0017, Conditional Use Permit UP14-0024, and Vesting Tentative Map No. MT14-0004 subject to the conditions of approval.**

LOCATION:
Address/APN: 450 Montague Expressway (APNs: 86-037-004, -019, -020, and -021)
Area of City: Northeast Corner of the Montague Expressway and East Capitol Avenue Intersection.

PEOPLE:
Project Applicant: Lennar Multifamily Communities
Property/Business Owner: Milpitas Montague LLC, c/o Lyon Capitol Ventures (4901 Birch Street, Newport Beach, California 92660); Uffda LLC (400 E. Montague Expressway, Milpitas, CA 95035)
Project Planner: Shaunn Mendrin, Senior Planner

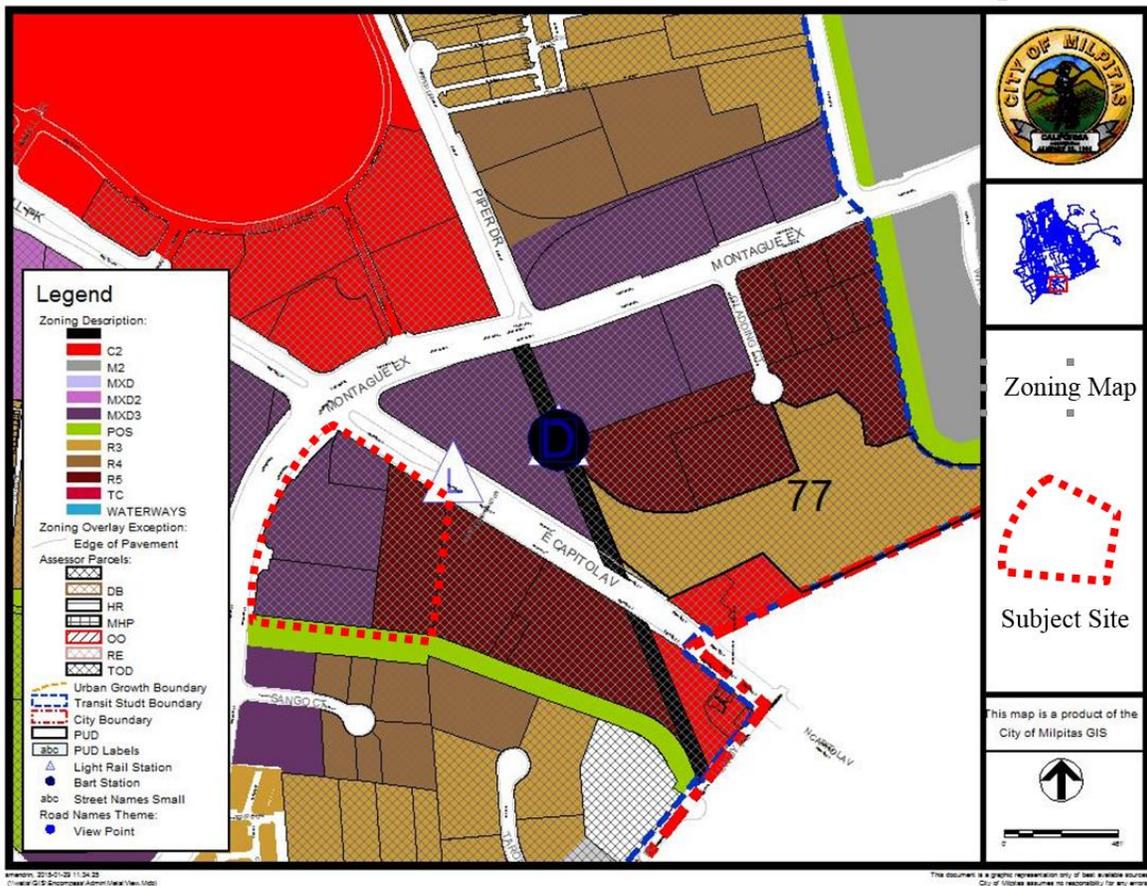
LAND USE:
General Plan Designation: Boulevard Very High Density Mixed Use (BVMU)/Urban Residential (UR)
Zoning District: Mixed Use Very High Density (MXD3)/ Urban Residential (R5)
Overlay District: Site and Architectural (-S) and Transit Oriented Development (-TOD)

ENVIRONMENTAL: Categorically Exempt pursuant to Sections 15168(c)(2) of the California Environmental Quality Act (CEQA).

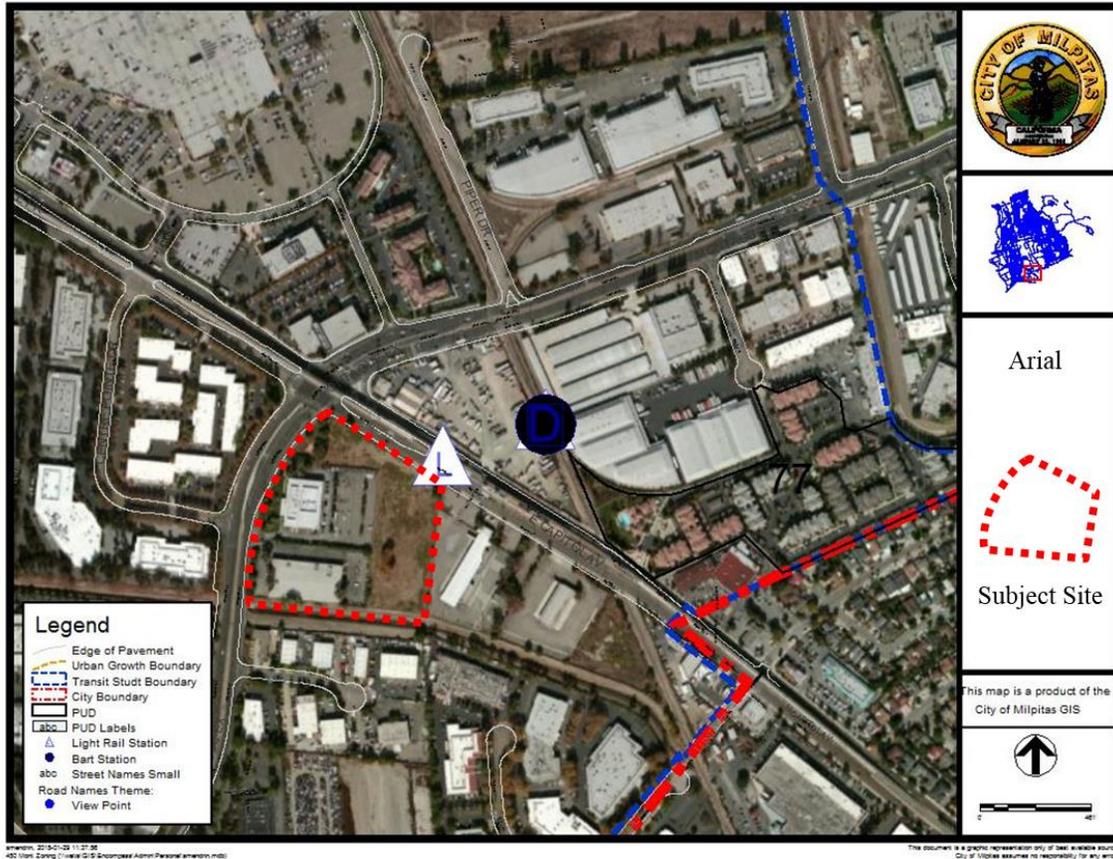
EXECUTIVE SUMMARY

The applicant is requesting a Site Development Permit, Conditional Use Permit and Vesting Tentative Map to allow the development of 489 dwelling units in one five-story building and seventeen staked flat townhouse buildings. The project would also include the development of two parks, a linear park, on-site parking, landscaping and other associated landscape improvements. The project applicant will also fund the development of construction drawings for the Milpitas Boulevard Extension and vehicular/pedestrian bridge over Penitencia Creek and the Pedestrian Bridge over Montague Expressway connecting to Centrepont. The approval of this permit will rescind and replace previously approved entitlements for 474 dwelling units and associated improvements formerly approved for Lyon Communities on the same site (Site Development Permit No. SD12-0009, Conditional Use Permit UP12-0024, and Tentative Map No. MT12-0005).

Map 1
Project Site-Zoning Map



Map 2 Project Site



Context Pictures – View from Montague



Context Picture – View from Corner of Montague and E Capitol



Context Picture – View E Capitol



BACKGROUND

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

On December 18, 2012, the City Council adopted Resolution No. 8216 approving Site Development Permit No. SD12-0009, Conditional Use Permit No. UP12-0025 and Tentative Map No. MT12-0005 for the development of 474 residential units located at the subject site.

On October 23, 2014, an application was submitted by Lennar Multi-Family Communities to amend and replace the prior the entitlements to allow for the development of one five story building with 351 dwelling units located over a podium with two levels of parking below and 138 stacked flat townhouses with associated landscaping and site improvements. The project also includes the development of two park areas (A, B and a Linear Park Trail parallel to Penitencia Creek and improvements to the existing maintenance road along the creek). The proposed project is located within the Trade Zone-Montague Sub-District of the Transit Area Specific Plan. The sub-district is located near the future BART station and the existing VTA Light Rail Station.

The Application

The project proposed by Lennar Multi-Family requires Planning Commission and City Council review pursuant to Section 57 of the Milpitas Zoning Code and consideration of the following Planning Applications:

- *Site Development Permit:* to allow the development of 489 dwelling units, site design and landscaping.
- *Conditional Use Permit:* to allow for deviations from the Transit Area Specific plan in regards to driveway access, park space configuration and underground garage structure height, and exception from Zoning Code requirements for private open space and to allow tandem parking spaces.
- *Major Vesting Tentative Map:* to allow the subdivision of the land for condominium purposes.

PROJECT DESCRIPTION

Overview

The project is located on four parcels totaling 10.47 acres along East Capitol Avenue and Montague Expressway. The subject property is located within the Transit Area Specific Plan and is partially zoned Mixed Use Very High Density and Urban Residential with Transit Oriented Development with Site and Architectural Overlays. A vicinity map and context photos of the subject site are included on the previous pages.

The project includes two housing products types. First, is a 351 unit five-story building (Building 1) located over a partially submerged two-story parking garage. Building 1 will include a central podium level open space with landscaping and pool for the residents. The second product is a 138 Stacked Flat housing units ranging from three to four stories and all have garages at the ground floor (see Attachment C). The project proposes to deviate from the Transit Area Specific Plan's circulation component, park reconfiguration, and the amount of the garage that extends above the grade for Building 1. Thus, the project is required to demonstrate a public benefit (see discussion below).

In addition, the project proposes to dedicate approximately one acre of parkland and they will design and construct this area for park purposes. The project will also design and construct a linear trail on-site parallel to Penitencia Creek and they will also construct the multiuse trail along East Penitencia creek on the maintenance road from Montague Expressway to the eastern

boundary of the project connecting to a sidewalk leading up to Park B for the interim. The next developments to the east will extend the trail to the east to Lundy Place.

Location and Context

The project is located on the southeast corner at the intersection of Montague Expressway and East Capitol Avenue within the Tradzone/Montague Subdistrict. The site is approximately 10 acres and is currently occupied by two vacant industrial buildings of approximately 20,000 square feet located in the southwest corner of the site. The remainder of the site is vacant with various types trees on the site. All existing site improvement and vegetation will be removed and replaced with the proposed project, site improvements and landscaping.

PROJECT ANALYSIS

General Plan and Zoning Conformance

The General Plan Designation for this site is Boulevard Very High Density Mixed Use (BVMU) for the parcels abutting Montague Expressway and Urban Residential (URR) for the parcel abutting East Capitol Avenue. These designations were identified as appropriate land uses during the development of TASP due to the proximity to the existing VTA station and future BART station. These designations require a minimum density of 41 dwelling units per acre and it does allow for retail space at the ground floor (although it is not required in this area). The intent of this designation is to locate high density residential adjacent to local mass transit options such as VTA and BART. The proposed project is consistent with the General Plan and TASP land use designations and densities. In addition, the project is consistent with the Zoning Designations of Very High Density Mixed Use (MXD3) and Urban Residential (R5) which reflect the General Plan land use designations.

Architectural & Site Design

The project's architecture represents a contemporary style that is consistent with the design guidelines of the TASP. The proposed architecture is a contemporary vernacular that uses modern interpretations on traditional forms. For example, the large protruding bay elements provide a modern industrial feel in combination with the contrasting color palate and stone materials. The colors and materials provide a base to the building and pedestrian scale at the street level. The corner elements have been enhanced with storefront glazing to provide a visually large leasing and amenities area and the second lobby on Montague has been enhanced to establish the entry. Staff has included several conditions requiring minor refinements to the architecture, which some have been addressed in the submittal before you tonight. The additional changes are intended to refine the quality of the building and to establish a stronger base for the structures. The proposed site layout is consistent with the TASP in that the street and trail frontages comply with TASP sections and details.

Development Standards

The table below demonstrates how the project is consistent with the development standards of the Very High Density Mixed Use (MXD3) and Urban Residential (R5) zoning districts.

Table 1:
Summary of Development Standards

	Zoning Ordinance/TASP	Proposed
<u>Density</u> (Min/Max)	41-75 units/acre	46.7 units/acre
<u>Setbacks</u> (Minimum)		
Capitol Avenue	49'	49'
Montague Expressway	45'	45'
East	20'	41'
South	20'	25'
<u>Building Height</u> (Maximum)	12 stories	5 stories
<u>Parking</u> (Minimum)	668 residential + 121 guest = 780	834 spaces (272 Tandem)*
<u>Maximum encroachment into setbacks by patios, stoops, etc.</u>	± 6'	<i>Varies, but > 6' *</i>
<u>Open Space</u>	Min 40 sq. ft. for balconies and Min of 50 sq. ft. for patios	<i>Short 16% for some studios and 1 bedroom units on Capitol Ave. *</i>
* Indicates a Conditional Use Permit is required to allow the proposed deviations.		

The proposed project is generally consistent with Development Standards noted above with the approval of a Conditional Use Permit (CUP) as allowed by Code. The following discussion will provide an overview of the project and highlight those elements that require consideration of a Conditional Use Permit.

Parking

Parking for the project complies with the Milpitas Municipal Code, which is a minimum of 780 parking spaces for the entire project based on the bedroom count and parking type (individual garage versus parking structure). The following table summarizes the parking required and provided for the project:

Table 2
Parking Summary

5-Story Rental Building			
Unit Type	Number of Units	Spaces Provided	Parking Ratio
Studios	45	384	1.09

1BR	202		
2BR	104		
Total	351		
Tandem Parking Allowed (75% of total required parking)		128	25%
Guest Parking (15% of residential parking)		67	15%
Total		579	1.45
Total Required by Code		510	
Stacked Flat Units			
Unit Type	Number of Units	Spaces Provided	Parking Ratio
2BR	42	126	1.95
3BR	92		
4BR	4		
Total	138		
Tandem Parking Allowed (50% of total required parking)		144 (63)	53%* (50%)
Guest Parking (20% of residential parking)		52	23%
Total		270	1.95
Total Required by Code		268	
<i>* See discussion below about parking</i>			

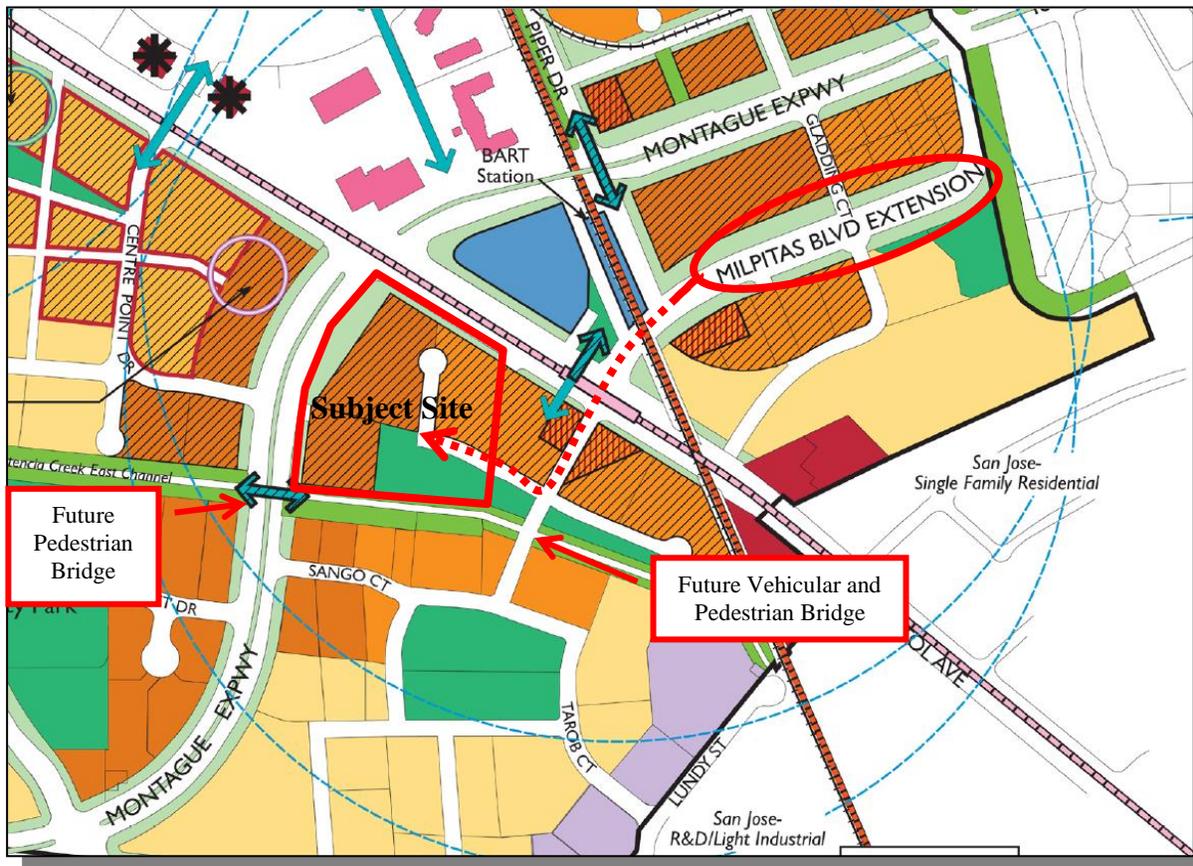
Parking is provided in the parking structure under Building 1 and private garages in the Staked Flat units and open on-site spaces. The project includes tandem spaces which has different requirements for structured parking vs. private garage. The amount proposed in Building 1 is below the maximum allowed of 75% of the total required parking. However, the Stacked Flats exceed the maximum allowed of 50%, with a total of 53%. The project meets the requirements for the remaining parking for the residential units and guest parking. The total parking provided on site meets the minimum required. A Conditional Use Permit is required to allow the use of tandem parking spaces, which has been discussed below under the CUP discussion.

Access & Circulation

The site is accessed through two main accesses points from Montague Expressway and East Capitol Avenue. The site will also be accessed from the future Milpitas Avenue extension and frontage road paralleling Penitencia Creek. The access from Montague will remain as right in and right out access. The Capitol Avenue access will also be right in and right out temporarily until the Milpitas Boulevard extension is constructed at which point the driveway will right in only and exiting the site access would occur through the new Milpitas Boulevard Extension. The

podium building garage will be partially submerged and will have to distinct levels and access points. The lower level will be accessed from the ramp off of Drive Isle 1 (near the Montague side) and the second level will be accessed off Street B. Pedestrian circulation will be provided around the perimeter of the site with the installation of new sidewalks and landscape. In addition, pedestrians will be able to walk through the site to the two public parks through the pedestrian trail adjacent to the creek, connecting paseos through the site and on-site sidewalks.

**FIGURE 1
TASP Area and Future Improvements**



Landscaping & Open Space Design

The proposed project site will result in the removal of several existing trees that will be replaced at a two to one ratio as per the Zoning Code. The landscape improvements will establish the pedestrian realm along Montague Expressway and East Capitol Avenue by adding in a wide planter bed, wide sidewalk and street trees. In addition, the project will include a pedestrian walking trail on the subject site parallel to the trail. Open space will include two parks, with one located in the center of the site with a tot-lot and the second will be located on the east edge of the site adjacent to the five-story building. Additional open space, including a pool, will be located on the podium level for residents of the larger building. In addition, most units will provide private balconies, except for a few units located on the larger building (see CUP

discussion below). There are two linkages from the linear park to the interior of the site. The site will be irrigated with reclaimed water for all common areas except for the podium plantings and pool. These two areas will require an Exception from the Urgency Ordinance (No. 240.2) by the City Council (see discussion below). The landscape palate is consistent with the TASP and staff has included some minor refinements to the planting plan to deter skate boarding on planter walls and enhancement of the overall plant palate. Staff notes that the proposed park location is different than what is noted in the TASP and has included a discussion under the CUP section of the report below.

Urgency Ordinance (240.2) Exception Request

On August 26th, 2014, the City Council adopted Urgency Ordinance No. 240.2, which implemented water use restrictions. Specifically as it relates to this project, the Urgency Ordinance prohibited the use of potable water for the installation of new landscape unless it is served by Reclaimed Water (5.07). Section 5.08 of the Urgency Ordinance allows the City Council to grant exceptions as needed. The subject site will be extending the reclaimed water line from Centere Point to the west side of the proposed Milpitas Boulevard Extension, which will be used on the site perimeter and all common areas. Reclaimed water is not allowed to be used on the podium level in the five-story building and for the proposed pool. Staff is in support of the proposed exception since the potable water use will be for small raised planter beds which are consistent with the Water Efficient Landscape Ordinance and for the proposed pool which will serve as a great amenity for the 351 residents in the main building.

Grading, Drainage and Stormwater

The proposed project will require grading to allow for the construction of the garage, streets and pad for the staked flat units. Site drainage will be treated through a combination of Low Impact Development (LID) measures, which include bio-treatment planters and some mechanical filtration units. These are allowed for projects with higher densities located near mass transit.

Utilities

The site will be served by City water and sewer and San Jose reclaimed water. All other utilities will be either underground or may be relocated to accommodate new utilities or site improvements. The site does have two PG&E electrical distribution towers which cannot be placed underground and will remain in place and they may be relocated later by the County to accommodate improvements to Montague Expressway. The actual timeframe has not been determined as of yet. The proposed trees under these utilities have been vetted with PG&E and are an acceptable species due to the mature growth height of the tree (Red Maple).

Climate Action Plan Conformance

The proposed project includes numerous measure identified in the CAP including waste reduction, bikeways, water conservation, recycled water and green building. The project will be achieving 80 Build it Green points through the implementation of several measures which will be further refined during the development of the construction drawings.

Conditional Use Permit

According to the TASP, exceptions to the TASP standards are allowed through a Conditional Use Permit. In addition to the standard findings for a CUP, the following two additional findings must be met:

The deviation from the Transit Area Specific Plan standard meets the design intent identified within the Specific Plan and does not detract from the overall architecture landscaping and site planning integrity of the proposed development.

The deviation from the Transit Area Specific Plan standard allows for a public benefit not otherwise obtainable through the strict application of the zoning standard.

The TASP is a conceptual land use document designed in 2008 and it is being implemented at a faster rate as we near the opening of the future BART station. The document also acknowledged that there may be some deviations from the plan as they relate to development standards and it established a process for consideration. The proposed project includes the following deviations from the adopted plan:

- *Driveway access on Montague Expressway and East Capitol Avenue.*
The TASP street network requires vehicular access to the proposed project from the Milpitas Boulevard extension. However, the Milpitas Extension has not been constructed and it is located on land not owned or controlled by the applicant. The extension will be constructed at a future date when the adjacent property is redeveloped. In the interim, staff is proposing to allow a temporary right turn access from East Capitol Avenue until the Milpitas Boulevard Extension has been constructed.
- *Underground garage extending more than 5 feet above grade.*
The TASP limits the amount of an underground garage that may extend above the grade to 5 feet. The proposed garage does extend up to 6 feet in some places on the site, which is a result of the site topography. The project uses raised planters planter beds and site landscaping to shield these elements from view which reduces the visual impacts of these sections.
- *Roadway Network Change*
The TASP originally laid out a road network for these properties front on E Capitol Avenue based on the projected layout of the plan. Since the construction of the BART station, a major high pressure gas line was relocated in the middle of the block further limiting the development area of 730 E Capitol Avenue. Since that time, the road network has been adjust to push the east west road further to the south to parallel Penitencia Creek and the linear park. This location has been reviewed internally and it still achieves the same goal of an internal road network to remove traffic off of Montague and Capitol.

- *Park Location*

The TASP also called out for a larger park location closer to Penitencia Creek for the 450 Montague site. The applicant proposed the park at a more internal location to better benefit the site. The parks will still be open to the public and they will be required to provide way finding signage. Furthermore, staff has presented the proposed park locations to the Park, Recreation and Cultural Resources Commission for their input and possible names for the park. The following provides an overview of the PRCRC comments:

Park Recreation and Cultural Resources Commission (PRCRC)

Staff presented the proposed park layout and design to the Parks, Recreation and Cultural resources Commission (PRCRC) on Monday, February 1, 2015. Staff reviewed the proposed layout, park elements and requested that the PRCRC provide names for the City Council to consider for the parks. The applicants Landscape Architect presented additional information about the proposed project and answered questions. The PRCRC was receptive to the park and recommended the City Council approve the design and recommended that the Council decide on one of the four names including; J.W. Johnson, Captain Calvin Valpey, O.H.P. Vennum and Charles Beverson for Park A (being West) and Park B (being East). The staff report and minutes have been included in Attachment E.

Staff brought the proposed park layout back to the PRCRC on March 2, 2015 due to change in the location of the Emergency Vehicle Access, relocation of the trash enclosure and removal of a connecting paseo. The PRCRC was also receptive of the change and comfortable with the additional conditions that staff included. The staff report and minutes are included in Attachment F.

In addition to the TASP Conditional Use Permit allowances, the Zoning Code also requires approval of a Conditional Use Permit for deviations from code provisions for the following:

Tandem parking: The Zoning Code allows the uses of tandem parking spaces with the approval of a Conditional Use Permit. The Zoning Code allows a maximum of 75% for structured garage spaces and 50% for private garages. The proposed development includes 128 tandems spaces in the structured garage (25%) and 144 spaces in private garages (53%). The amount proposed for the Stacked Flats is slightly above the maximum allowed. Staff is in support of the slightly higher number since the proposed product type (one level unit) is one that is not commonly built in the area. This type of unit provides housing opportunities for a larger age group range of residents. Each building will have a main lobby and elevator to each floor. Each garage space has a private entrance into the building leading to the main lobby and elevator. In addition, the site is in close proximity to the Light Rail and the future BART station; therefore staff is in support of the proposal. In addition, staff has added a Condition of Approval requiring the applicant to enter into an agreement with VTA for the Residential Eco Pass program. This will allow residents to receive the Eco Passes (or Clipper Cards) at a discounted rate due to the developments proximity to VTA Light Rail and BART.

Private Open Space: The Zoning code requires a minimum of 40 square feet for balconies and 50 square feet for patios for all development. The applicant is proposing that the 55 units do not have balconies in Building 1. They are a mix of studios and junior one bedrooms. Their justification is that site will be providing ample outdoor spaces for residents in this will also allow for more livable space in each unit, which is needed in smaller units. The project will have podium open space and the two parks and trail on the site.

Public Benefit

Since the project is requesting a Condition Use Permit through the TASP, the project is required to provide a public benefit at part of the development. Staff has worked with the applicant to design several important components related to the subject site and the remaining site to the east. You may refer to Figure 1 in the report, which identifies these elements. The applicant has agreed to the following:

- Fund a Feasibility Study for the Milpitas Avenue Extension Vehicular and Pedestrian Bridge that will span Penitencia Creek and eventually connect to Sango Court.
- Prepare Construction Drawings for the proposed bridge once the Feasibility Study has been vetted through the City and the Santa Clara Valley Water District and other require agencies.
- Fund the design and construction drawings for the Milpitas Avenue Extension from E Capitol Avenue to the new bridge.
- Provide cost estimates for the construction of the Milpitas Avenue Extension.
- Contribute 53% of the total costs for the construction of the Milpitas Avenue Extension.
- Fund a Feasibility Study for the new Pedestrian Bridge over Montague Expressway near Penitencia Creek.
- Prepare Construction drawings and cost estimates for the construction of the new Pedestrian Bridge.

Overall, the applicant will be providing a substantial amount of funding to design several key elements within the TASP, which are key elements for these several parcels.

Major Vesting Tentative Map

A Major Vesting Tentative Map is required to allow the subdivision of land to allow the creation of 18 building lots for the residential structures. Seventeen of the lot will be created for condominium units in the Staked Flats. The map will also allow Building 1 to be sold off separately to the Rental Division of Lennar. Staff has included a condition requiring the recordation of a Density Averaging Agreement prior to recordation of the Final Map, this acknowledges that the development has been considered as a whole for density calculations and that no changes in the number of units may change. The requested map is consistent with the General Plan, TASP and Zoning Code in regards to lots sizes and allowable densities.

FINDINGS FOR APPROVAL

Staff has included Findings for Approval in Attachment A for reference. Staff found that the development is consistent with the General Plan, Zoning Code and TASP Goals and Polices. In

addition, the project is providing a substantial public benefit by designing several key circulation elements for this subdistrict.

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on January 30, 2015. (Two Fridays before the meeting) In addition, 124 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CITY COUNCIL REVIEW

This project requires review by the City Council and is tentatively scheduled on the April 21, 2015 Council agenda.

CONCLUSION

The project represents a high quality, high density compact project near the future BART station. The project would anchor a prominent intersection in the TASP. While the project includes some deviations the project's public benefits will outweigh the exceptions.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing; and
2. Adopt Resolution No. 15-003 Recommending that the City Council approve the proposed project Site Development Permit No. SD14-0017, Conditional Use Permit No. UP14-0024, And Tentative Map No. MT14-0004 for the Lennar residential project located at 450 Montague Expressway based on the finding and subject to the Conditions of Approval in Exhibit 1.

ATTACHMENTS

- A: Resolution 15-003
- B: Initial Study and Categorical Exemption
- C: Plan Set
- D: Parks, Recreation and Cultural Resources Commission, Packet and Draft Minutes February 2, 2015
- E: Parks, Recreation and Cultural Resources Commission, Packet and Draft Minutes March 2, 2015