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MEMORANDUM

DATE: March 30, 2016

TO: Lisa Costa-Sanders, Contract Planner, City of Milpitas

FROM: Theresa Wallace, Associate/Project Manager
Judith H. Malamut, AICP, Principal

SUBJECT: California Environmental Quality Act (CEQA) Exemption Memo for the 720 Montague Project, Milpitas, California

This memorandum and attachments provide a description of the 720 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 2.35-acre project site is located at 720 Montague Expressway in Milpitas, Santa Clara County, at the corner of Montague Expressway and Gladding Court. The proposed project would involve the demolition of all existing structures and associated pavements on the site and grading and construction of 216 residential units, 10,535 square feet of ground-floor uses, and a two-story subterranean parking garage.

Attachment A provides a project description of the 720 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 (TASP) Project and Final Environmental Impact Report (FEIR), 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 720 Montague project as being within the scope of the TASP covered by its FEIR 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 720 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

PROJECT DESCRIPTION

The following describes the proposed 720 Montague Expressway Residential Mixed-Use (project), which is located within the planning area for the Milpitas Transit Area Specific Plan (TASP). This section includes a summary description of the project's location and existing site characteristics, required approvals, and entitlements. The City of Milpitas (City) is the lead agency for review of the project under the California Environmental Quality Act (CEQA).

A. PROJECT SITE

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

1. Location

The 2.35-acre project site is located at 720 Montague Expressway and is situated at the corner of Montague Expressway and Gladding Court in the City of Milpitas. The generally rectangular project site is bordered by Montague Expressway on the north, Gladding Court on the east, and the currently under-construction Milpitas Bay Area Rapid Transit (BART) station and associated garage to the south and west. As part of the BART station construction, a new public street, South Milpitas Boulevard, will be constructed and will border the site immediately to the south. Figure 1 shows the site's regional and local context. Figure 2 depicts an aerial photograph of the project site and surrounding land uses.

Regional vehicular access to the project site is provided by Interstate 880 (I-880) located to the west and by Interstate 680 (I-680) located to the east of the site. The future Milpitas BART station is currently under construction and will be co-located with the existing Valley Transportation Authority (VTA) light rail station, approximately 500 feet west of the project site.

2. Site Characteristics and Current Site Conditions

The project site is generally level and is currently developed with a 42,135 square-foot concrete office-industrial building with associated surface parking at the northern and eastern site perimeter. Access to the site is currently provided by a driveway on Montague Expressway and a driveway on Gladding Court. The majority of the project site is covered with impervious surfaces (approximately 86 percent), consisting of the building and paved parking lots, driveways, and walkways. Existing vegetation consists of landscaped areas at the northern and eastern perimeter of the site and adjacent to the existing building. There are a total of 27 trees located on the site, 25 of which are identified as protected trees. Existing site conditions are depicted in Figure 3.

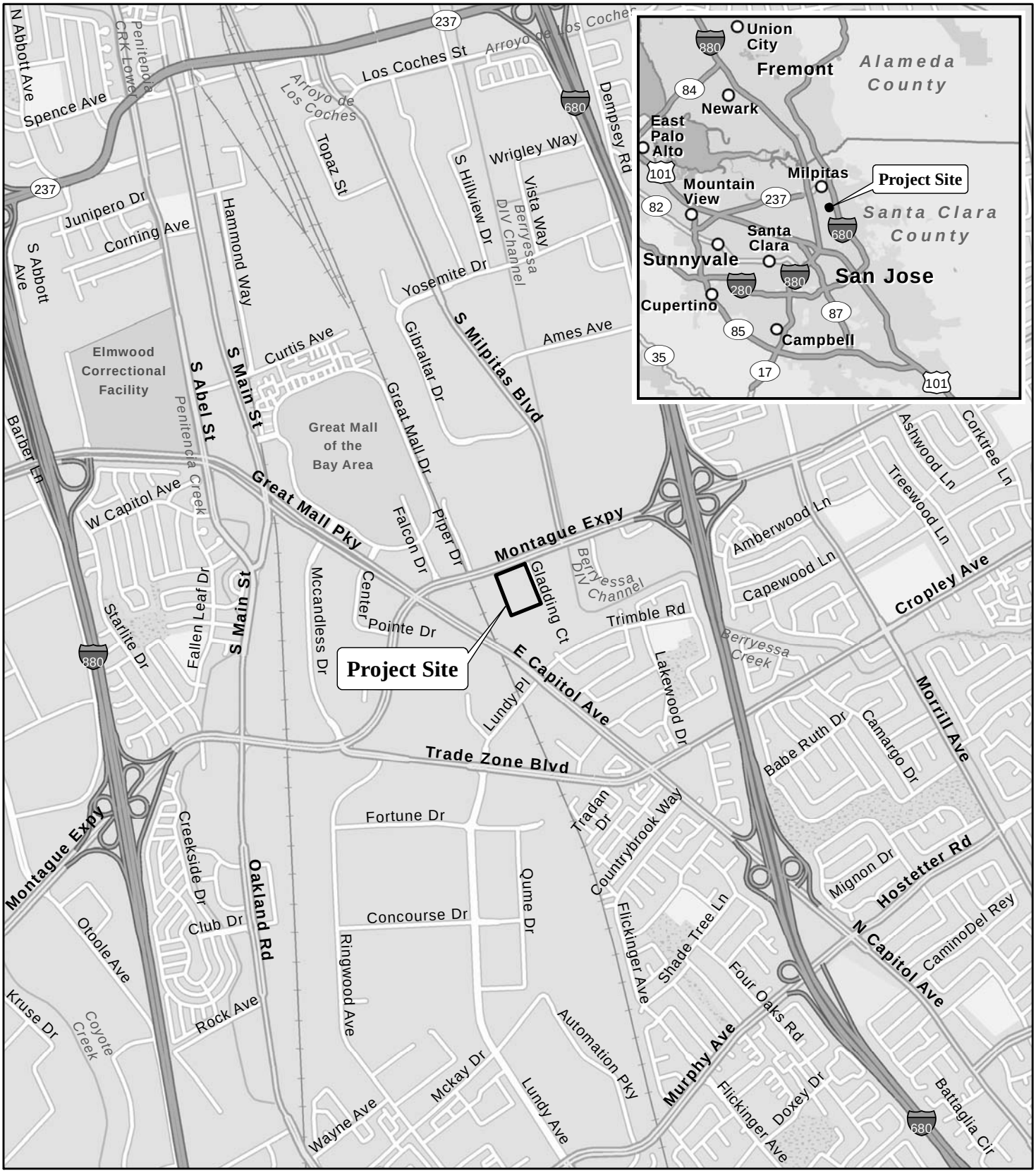

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FIGURE 1

0 1000 2000
FEET

SOURCE: ESRI STREETMAP NORTH AMERICA (2012).

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720 Montague Expressway Residential Mixed-Use Project

Project Location and Regional Vicinity Map

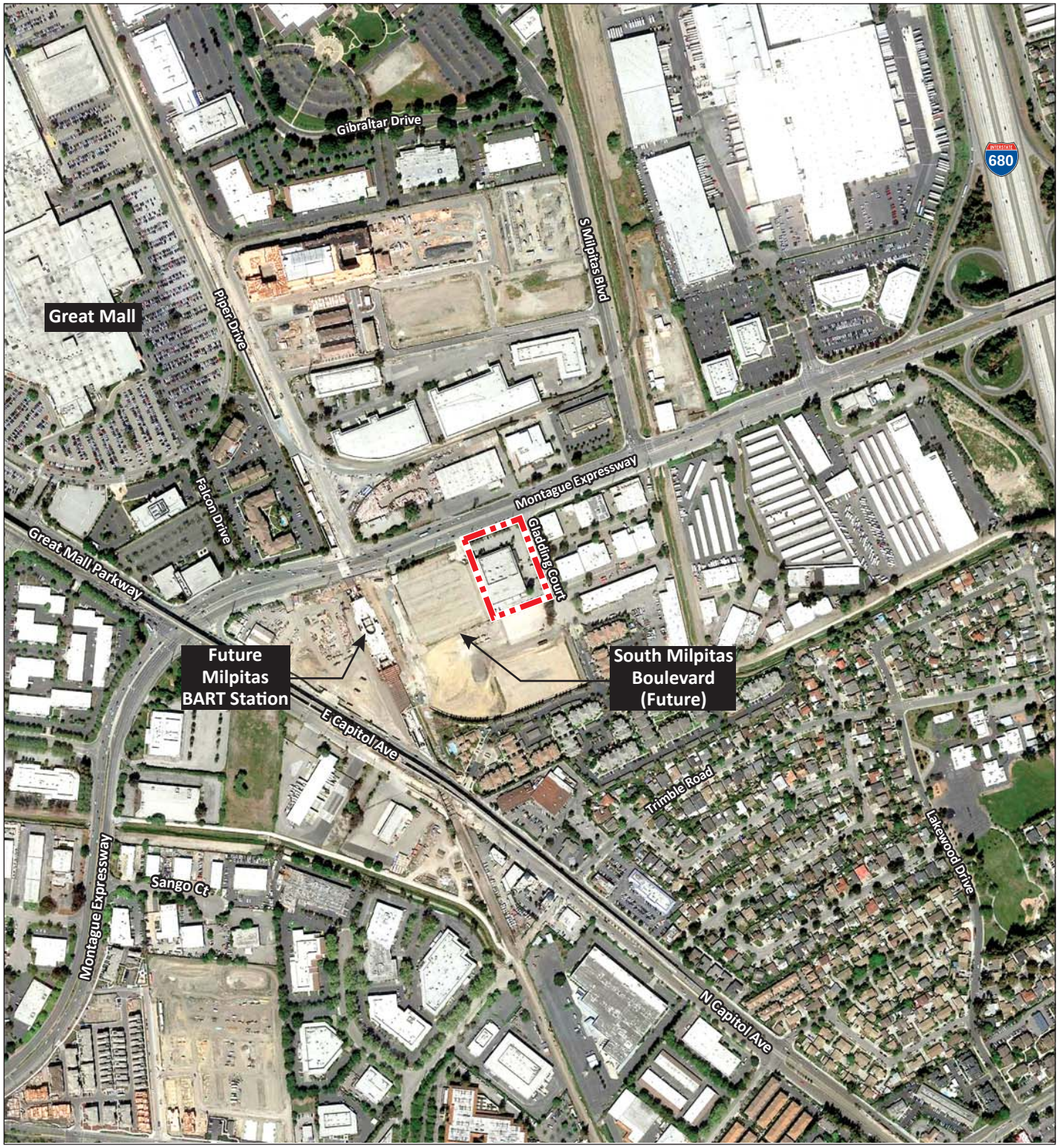

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FIGURE 2

N

Project Site

0 325 650
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720 Montague Expressway Residential Mixed-Use Project

Aerial Photograph of Project Location

SOURCES: GOOGLE EARTH, MARCH 2015; LSA ASSOCIATES, INC., 2015.

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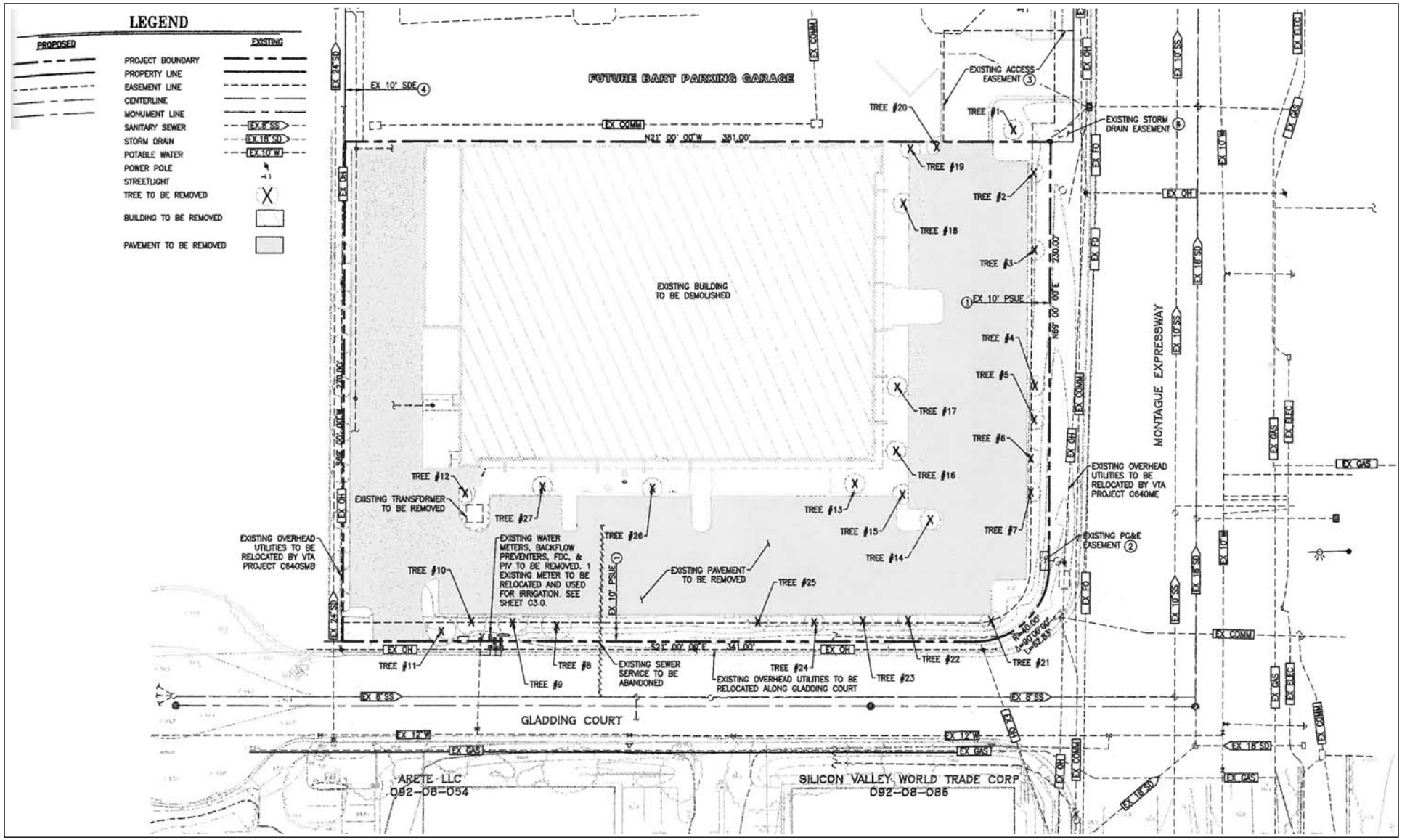

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FIGURE 3

NOT TO SCALE

720 Montague Expressway Residential Mixed-Use Project

Existing Conditions Plan

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, OCTOBER 2015.

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3. Existing General Plan and Zoning

The project site is currently designated in the General Plan as Boulevard Very High Density Mixed Use (BVMU) and is within the TASP planning area boundaries. Within the TASP boundary, the project site is within the Montague Corridor subdistrict. The TASP designates the site as Boulevard Very High Density Mixed Use, including a Density Bonus overlay, and with a zoning designation of Mixed Use, Very High Density Transit Oriented Development Overlay (MXD3).

4. Milpitas Transit Area Specific Plan

In 2008, the City of Milpitas adopted the Milpitas TASP[1] as a guide for development and redevelopment of its light industrial corridor near the future Milpitas BART and current VTA station. The goals of the TASP are to create an attractive and livable neighborhood within walking distance of the future Milpitas BART and VTA light rail transit stations and to transform the older, light industrial area into a residential and commercial area that would meet demand for housing, offices, and shopping in the Bay Area. Milpitas designated the TASP to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region.

Environmental impacts associated with implementation of the TASP were evaluated in the Final Environmental Impact Report[2] (TASP FEIR). The TASP FEIR, certified in 2008, evaluates the environmental impacts of approximately: 1) 7,100 units of residential development; 2) 18,000 new residents; 3) 4,200 new jobs; 4) 1.0 million square feet of office space; 5) 285,000 square feet of retail space; and 6) 175,000 square feet of hotels.

The TASP identifies subdistricts within the planning area, each having its own policies related to street design, land use, building height, setbacks, parks and building design. The project site is located within the Montague Corridor Subdistrict of the TASP study area. The Montague Corridor is identified as providing the opportunity to develop a distinct and positive identity to the City and the Transit Area, by creating a grand boulevard style with lush landscaping and a row of high profile buildings. It is noted to be the best location for much of the intense development that is called for near a major transit station.

5. Surrounding Land Uses

The project site is located within the light industrial land-use corridor of Milpitas that is predominantly developed with commercial office parks and other buildings for industrial uses. New residential units as part of the TASP have been constructed within the vicinity of the project site. The project site is immediately adjacent to the under-construction Milpitas BART station and is within proximity to the Great Mall shopping center in Milpitas, located approximately 0.3 miles northwest of the project site.

[1] Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan.* June. Amended December 2011.

[2] Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan Final Environmental Impact Report.* May.

B. PROPOSED PROJECT

This section provides a description of the proposed project as identified in the materials provided by Montague Place, LLC (the project applicant) that are dated January 29, 2016. The proposed project would result in demolition of the existing building and all surface pavements on the site and construction of a new four- to five-story 248,183 square-foot mixed-use building. The building would include a total of 216 residential units; 10,535 square feet of ground-floor uses with retail, leasing office, and indoor amenity space; and a two-level subterranean parking garage with parking for 353 vehicles. Associated landscaping and utility connections would also be provided. Figure 4 depicts the conceptual site plan for the proposed project.

The TASP FEIR evaluated the environmental impacts associated with implementation of the entire TASP of which the proposed project is a part of. Table 1 shows the housing units and population assumptions evaluated within the TASP FEIR, the number of approved units, and under construction units. As shown, the development associated with the proposed project is within the amount of growth evaluated and cleared within the TASP FEIR.

Table 1: Existing and Proposed Housing Units and Population within the TASP Area

	Evaluated Within The TASP FEIR	Approved and Not Yet Under Construction	Approved and Under Construction	Proposed Project	Remaining Development Available
Housing Units	7,109 [a]	3,926	1,548	216	1,419
Population	17,915 [a]	9,894 [b]	3,901 [b]	545 [b]	3,575

[a] Milpitas, City of. 2008. *Milpitas Transit Area Specific Plan Final Environmental Impact Report* .May.
[b] Estimated population associated with approved units, under construction units, and the TASP was determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).
Note: The number of "Approved" and "Under Construction" units identified in the above table reflect the number of units known to LSA as of February 25, 2016. Additional units associated with proposed development in the TASP area, which may be approved or under construction after this date and prior to approval of the proposed project, would be tracked by City staff to ensure that new projects fit within the housing and population projections identified in the TASP and evaluated in the FEIR.
Source: LSA Associates, Inc., 2016.

1. Building Program

The proposed project would result in the development of 184,550 square feet of residential uses throughout all levels of the new mixed-use building, with the exception of the basement. A total of 216 residential units would be located within the building and would be comprised of approximately 15 junior one-bedroom units, 126 one-bedroom units, and 75 two-bedroom units. Unit sizes would range between 690 and 1,200 square feet in size.

A total of 10,535 square feet of retail and residential support/amenity space would also occupy the ground-floor. Approximately 5,630 square feet of retail space would be located at the southwest corner of the building, a total of 2,940 square feet of lobby/leasing area space would be located throughout the ground floor, and 1,965 square feet of residential amenity space would also be located at the ground floor.

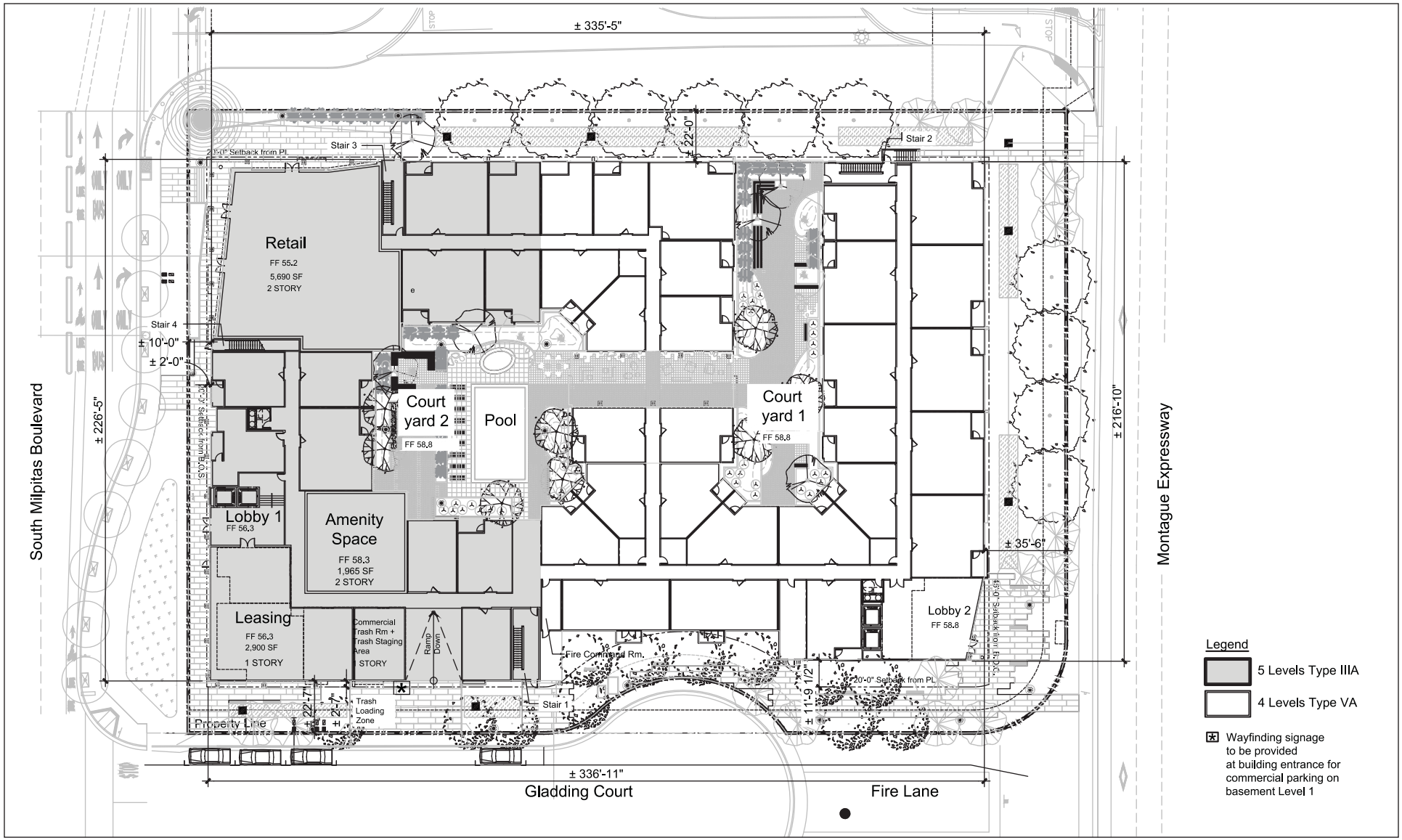

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FIGURE 4

0 20 40
FEET

720 Montague Expressway Residential Mixed-Use Project

Conceptual Site Plan

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

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The proposed mixed-use building would be a maximum of five stories in height (a maximum of 57 feet, excluding elevator overruns), with four-story elements along Montague Expressway. Conceptual building elevations are depicted in Figures 5a and 5b and conceptual building sections are shown in Figure 6.The new building would be situated around two internal courtyards. Residential units would face perimeter streets and the internal courtyards. The building would be setback a between 10 and 20 feet from the property line, and a minimum of 45 feet from the curb fronting Montague Expressway.

2. Open Space and Landscaping

The proposed project would include a total of 14,750 square feet of usable, common open space within two internal courtyards. Open space areas include a swimming pool, patios, sitting areas, and passive open lawn areas for use by residents only. Approximately 201 of the residential units would include private balconies.

The proposed project would remove all 27 trees on the site and these would be replaced according to City standards. Approximately 52 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 and within the internal courtyards.

3. Access, Circulation and Parking

A two-level subterranean parking garage would be constructed beneath the ground-floor podium level of the building. The conceptual parking level plans are shown in Figure 7a and 7b. The parking garage would provide parking for up to 353 vehicles, including 290 spaces for project residents (252 standard, 26 tandem, and 12 compact spaces) and 63 standard spaces open to the public, including 19 spaces for use by retail employees and patrons and 44 spaces for residential visitors. The first level of the garage would also include long-term parking for up to 54 residential bicycles. An additional 7 outdoor bicycle parking spaces would be located at the site perimeter and would be available for short-term and public use, for a total of 62 bicycle parking spaces.

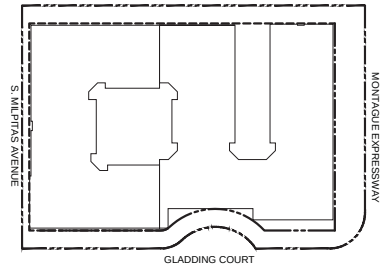
All existing driveways would be removed and new curb cuts would be provided to access the new parking garage. A single access driveway to the garage would be provided via Gladding Court. Public sidewalks would be provided on all sides of the new building. Access to and through the internal courtyards would be provided internally.

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 10- and 12-inch water mains are located on Montague Expressway and Gladding Court, respectively. A future 12-inch water line would also be located on the future South Milpitas Boulevard. The proposed project would connect the existing water line within Gladding Court.

Elevation at S. Milpitas Avenue



KEY MAP - N.T.S.

Elevation at Gladding Court

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FIGURE 5a

N

0 16 32
FEET

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

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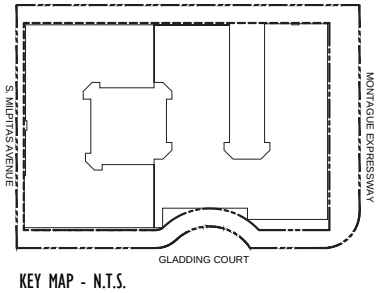
720 Montague Expressway Residential Mixed-Use Project

Conceptual Building Elevations

Elevation at Montague Expressway



Elevation facing Future BART

LSA

FIGURE 5b

0 16 32
FEET

720 Montague Expressway Residential Mixed-Use Project
Conceptual Building Elevations

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

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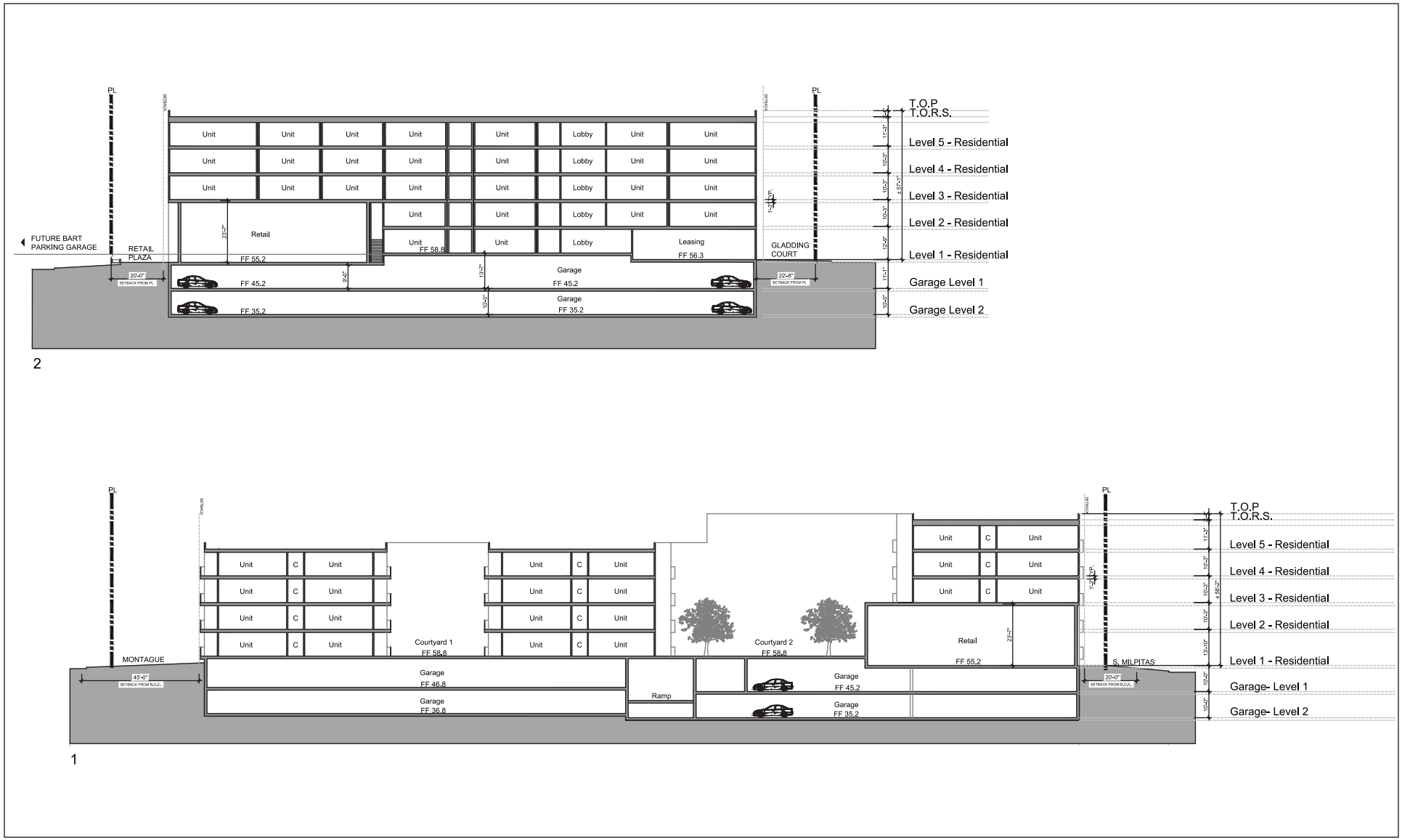

LSA

FIGURE 6

0 16 32
FEET

720 Montague Expressway Residential Mixed-Use Project

Conceptual Building Sections

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

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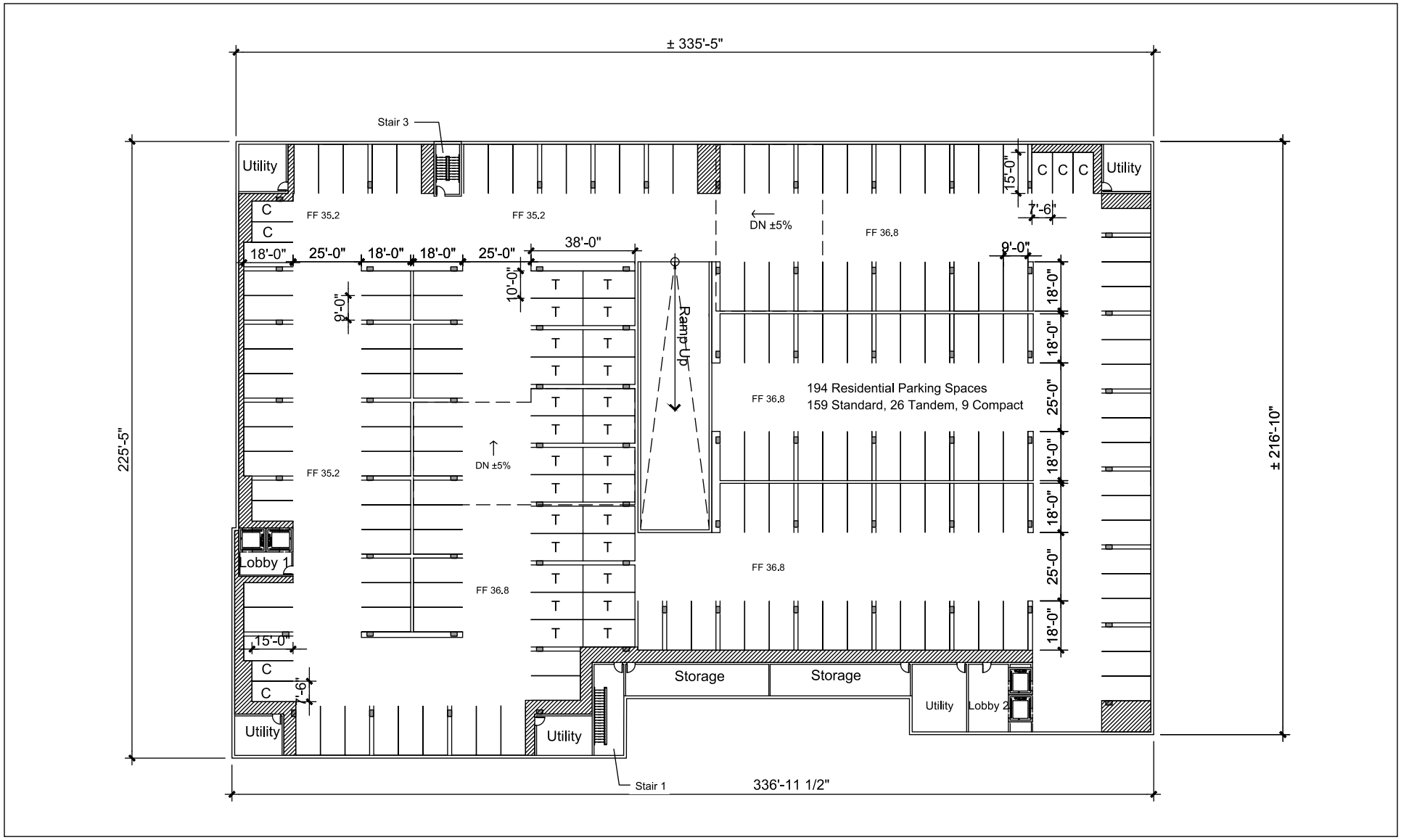

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FIGURE 7a

N

0 30 60
FEET

720 Montague Expressway Residential Mixed-Use Project

Conceptual Parking Plan - Basement Level 2

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

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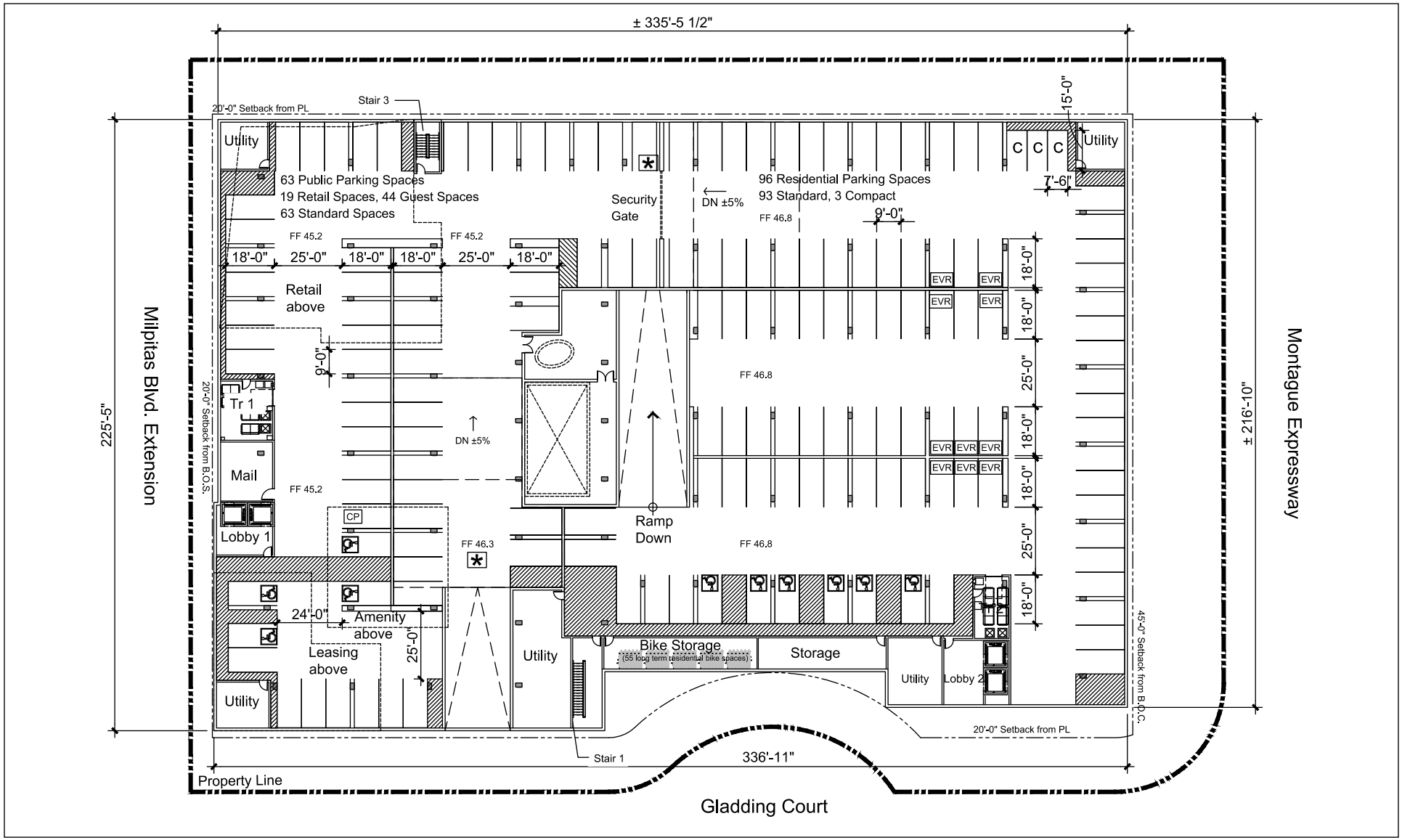

LSA

FIGURE 7b

Legend

EVR Electric Vehicle Ready

CP Carpool preferential parking near Elevator

Wayfinding signage to be provided to distinguish commercial vs. residential parking

N

0 20 40

FEET

SOURCE: KTGY GROUP, INC., ARCHITECTURE + PLANNING, JANUARY 2016.

720 Montague Expressway Residential Mixed-Use Project

Conceptual Parking Plan - Basement Level 1

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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, including 10-inch line at Montague Expressway and an 8-inch line at Gladding Court. Residential units built as part of the proposed project would connect directly to the line at Gladding Court.

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 stormwater infrastructure within the vicinity of the site includes an 18-inch line at Montague Expressway and a future 36-inch line at the future South Milpitas Boulevard.

Upon construction of the proposed improvements, approximately 1.88 acres (81 percent) of the project site would be covered by impervious surface and about 0.44 acres (19 percent) would be covered by landscaped areas including lawns, shrubs, and trees. All walkways within these areas would be sloped to drain onto the surrounding landscaping.

The proposed on-site drainage system would consist of six principle drainage management areas that would be treated by at-grade bio-retention areas before entering the storm drain system. These include

- *Drainage Management Area 1* – Approximately 28,745 square feet of the southwest corner of the project site;
- *Drainage Management Area 2* – Approximately 11,545 square feet of the west edge of the project site;
- *Drainage Management Area 3* – Approximately 11,061 square feet of the north edge of the project site;
- *Drainage Management Area 4* – Approximately 10,005 square feet of the northeast corner of the project site;
- *Drainage Management Area 5* – Approximately 4,713 square feet of the east edge of the project site; and
- *Drainage Management Area 6* – Approximately 7,220 square feet of the south of the project site.

Bio-retention areas would be incorporated into the landscape design to provide appropriate vegetation and water quality treatment, including in open spaces and street frontages. On site drainage would be designed consistent with the C3 requirements for Low Impact Development. All walkways within the open space area of the development will be sloped to drain onto the surrounding landscaping.

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 (servicing the project only) 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.

APPROVALS/PERMITS

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

- Site Development Permit
- Conditional Use Permit
- Vesting Tentative Map
- Demolition Permit
- Building Permit
- Encroachment Permit
- Tree Removal Permit

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ATTACHMENT B

PROGRAM EIR CHECKLIST
PURSUANT TO CEQA GUIDELINES SECTION 15168

PROGRAM EIR CHECKLIST
PURSUANT TO CEQA GUIDELINES SECTION 15168

CEQA Guidelines Section 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 720 Montague Project is within the scope of the Transit Area Specific Plan EIR (TASP FEIR) and will have no effects and no new mitigation measures are required, and as such, the City can approve the 720 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 720 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?	☐	☐	☐	☒
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	☐	☐	☐	☒
c)	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

DISCUSSION

As described in more detail in the project description (Attachment A), the 2.35-acre site is currently developed with a 42,135-square foot concrete office-industrial building with associated surface parking at the northern and eastern site perimeter. The majority of the site is covered with impervious surfaces (approximately 86 percent), consisting of the building and paved parking lots, driveways and walkways. Existing vegetation consists of landscaped area at the northern and eastern perimeter of the site and adjacent to the existing building. The site includes 27 trees.

The project site is located within the Montague Corridor Subdistrict of the TASP. Specific policies that apply to this district are outlined further below and would be applicable to the proposed project.

As noted in the TASP FEIR,[1] implementation of 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 FEIR 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 four stories along Montague Expressway, which is substantially less than what was assumed in the TASP FEIR (12- to 24-story buildings). Additionally, given the 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 FEIR.

The TASP FEIR determined that TASP policies related to aesthetics ensure that impacts are less than significant. The design style and materials proposed for the 720 Montague Project are consistent with policies of the Specific Plan.

The TASP FEIR also addressed the loss of mature trees that serve as visual or scenic resources 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.

The project would involve removal of all existing trees on the site (including 25 trees that are 11.7 inches or more in diameter as measured at breast height). All tree removal activities 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 52 trees, increasing the number of trees on the site by 25 trees over existing conditions.

The TASP FEIR found that there are potential significant impacts resulting from the introduction of new light and glare in the area (Impact 3.2-2), but concluded 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.

The 720 Montague Project is generally consistent with the type of development analyzed in the TASP FEIR; would reduce the height of the buildings from what was assumed in the TASP FEIR; would be

[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.

consistent with the TASP policies relating to aesthetics; and would increase the number of trees on the property in comparison to existing conditions. 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.*

TASP Development Standards

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

TASP 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.*
- *Policy 4.5: New development along Montague Expressway must dedicate land, such that a total of 79 feet from the roadway centerline is provided, to accommodate the future Montague Expressway widening project. The County plans to widen Montague Expressway to eight lanes throughout the Transit Area. As far as the City is aware, the County plans to expand the public right-of-way to extend 70 feet from either side of the existing roadway centerline. Properties will have varying dedication requirements, depending on the current roadway configuration, and some properties may not have to dedicate any land. The City*

does not know the County's plans for setbacks, sidewalks, or vegetation within the future right-of-way. However, the landscaped setback required by this Specific Plan for development along Montague Expressway must be measured from the future right-of-way.

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 FEIR adequately evaluated the potential aesthetic impacts of the 720 Montague Project.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
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?	☐	☐	☐	☒

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 a 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 720 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?	☐	☐	☐	☒
b)	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
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)?	☐	☐	☐	☒
d)	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e)	Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

DISCUSSION

Clean Air Plan Consistency

An air quality plan describes air pollution control strategies to be implemented by a city, county, or region classified as a non-attainment area. The main purpose of an air quality plan is to bring an area into compliance with the requirements of federal and State air quality standards.

The Bay Area Air Quality Management District (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 FEIR was the 2005 Bay Area Ozone Strategy.[2] In forecasting future stationary and mobile source emissions and preparing the regional air quality plan, the BAAQMD uses growth projections prepared by ABAG. The BAAQMD based its 2005 Bay Area Ozone Strategy on population projections in the 2003 ABAG Projections.[3] The TASP FEIR found that population increases in the City are anticipated to exceed population increases 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 federal Environmental Protection Agency (EPA) Clean Air Plan (CAP).

The proposed project would locate future residents within walking distance of public transportation, jobs, restaurants, and services. Implementation of the TASP includes policies that address transportation and land use that are consistent with the CAP. TASP Policy 3.21 would provide continuous pedestrian sidewalks and safe bike routes throughout the TASP Area; Policy 3.22 encourages walking and biking routes to schools and major destinations; and Policy 3.33 requires new development within the TASP Area to provide incentives for alternative modes of transit, which support the CAP. The proposed land use and zoning of the 720 Montague Project would result in a building density at the project site that is consistent with what was evaluated in the TASP. Therefore, the population growth associated with the proposed project is consistent with the TASP and would not result in any new impacts related to consistency with the CAP.

The TASP FEIR identified measures to reduce air emissions such as encouraging the use of pedestrian walkways and bikes, and designing streets for slower speeds, but concluded that air quality impacts would be significant and unavoidable. The project would implement the TASP measures and would not increase the previously-identified impacts. Thus conclusions about compliance with the CAP in the TASP FEIR remain applicable to the project.

Regional Air Pollutant Emissions

The TASP FEIR identified that development of projects under the TASP could further contribute to non-attainment of air quality standards. The TASP FEIR also identified that buildout of the TASP could place sensitive land uses (land uses that could house sensitive receptors) near local intersections or roadways associated with air pollutant emissions that exceed (worsen) State or federal ambient air quality standards.

The 720 Montague Project would develop the site with new residential and commercial uses, similar to what the TASP envisioned. The new uses would result in mobile air quality impacts from increased vehicle trips to and from the project site and air quality impacts such as emissions generated from the use of landscaping equipment and consumer products. Therefore, the proposed project would also contribute to the significant regional and local air quality impacts identified in the TASP FEIR. The TASP FEIR identified policies which provide measures to reduce vehicle trip generation and thus vehicle emissions from the project. Although the policies would reduce air quality impacts, regional

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

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

emissions would remain significant and unavoidable as identified in the TASP FEIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than described and evaluated in the TASP FEIR.

Construction-Related Impacts

Construction activities would cause temporary adverse effects on local air quality. Construction activities such as earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water-based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases immediately after its application. Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying materials are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of particulate matter downwind of construction activity.

Development of the proposed project would result in similar construction-related, short-term air quality impacts as those impacts identified in the TASP FEIR. Implementation of TASP Policy 5.16 would reduce construction-related air quality impacts, the proposed project would also not result in any new or more significant construction-related air quality impacts than were evaluated in the TASP FEIR. This impact would remain less than significant.

Local Community Risk and Hazard Impacts to Sensitive Receptors

The TASP FEIR identified a variety of pollutant or toxic air emissions (TACs), such as diesel exhaust and those from dry cleaning facilities, in addition to emissions that could be released from construction projects and operations associated with the proposed project. TASP Policy 5.23 requires project sponsors to inform future and/or existing sensitive receptors of any potential health impacts resulting from nearby sources of dust, odors, or toxic air contaminants, and where mitigation cannot reduce these impacts. As identified in the TASP FEIR, this information could be disseminated through rental agreements, real property disclosure statements, and/or mailed notices to existing residents and property owners; and would include, but would not be limited to: location of dry cleaners, proximity to diesel emission from trucks and passenger vehicles, and light duty industrial operations.

Policy 5.25 requires an analysis of the impact on future sensitive receptors located within 500 feet of active rail lines or roadways if traffic exceeds 100,000 vehicles per day. The Montague VTA light rail station is approximately 800 feet away and would not generate harmful emissions at this distance. The roadways within 500 feet of the proposed project are Montague Expressway, Gladding Court, and the future South Milpitas Boulevard extension; traffic on these roadways would not exceed 100,000 vehicles per day and therefore no further analysis is required. The proposed project does not include additional TAC sources in the project site; therefore implementation of the proposed project would not expose sensitive receptors to substantial pollutant concentrations.

Objectionable Odors

The TASP FEIR did not address potential odor impacts for the proposed project. The project would not include any activities or operations that would generate objectionable odors and, once operational, the project would not be a source of odors. Therefore, the project would not create objectionable odors affecting a substantial number of people. The proposed project would not increase impacts beyond those evaluated in the TASP FEIR and would have a less-than-significant impact related to odors.

APPLICABLE MITIGATION

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

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.*

TASP 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 Policy3.16.*
- *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 FEIR adequately evaluated the air quality impacts of the 720 Montague Project. Therefore, potential impacts would be less-than-significant and additional mitigation 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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

The majority of the Specific Plan area is already developed and there are no sensitive habitats identified within the area. The TASP FEIR found that the Specific Plan would largely have minimal impacts on biological resources. However, the TASP FEIR 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 FEIR 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 FEIR concluded that implementation of the proposed policies of the General Plan and Specific Plan would ensure that the impact to biological resources is less than significant.

The only record of special-status species occurring in the area is the burrowing owl. The TASP FEIR notes that development of vacant and ruderal lots could result in a loss of burrowing owls or their nests and requires specific policies to reduce impacts to burrowing owl habitat. However, since the project site is 86 percent developed with impervious surface area, the project site is not considered to provide suitable habitat for burrowing owls and the proposed project would not be required to comply with TASP Policy 5.26 related to burrowing owl habitat. Therefore there would be no new impacts related to special-status species as a result of the proposed project.

The TASP states that nesting habitat for non-listed special-status raptor species occurs on and near the TASP Plan area as many species will exploit large ornamental trees for cover, nesting, or stop over locations during migration, especially with the availability of water drainages nearby. Removal of large, mature trees can cause direct mortality to nesting birds and their young and construction disturbance can cause nest abandonment resulting in indirect losses to avian species.
TASP FEIR

The City implements a tree and planting ordinance to protect significant trees, which requires approval of a permit for tree removal. 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 (37-inch circumference is equal to 11.7-inch diameter at breast height) at 4.5 feet above the ground. There are currently a total of 27 trees on the project site, including 25 protected trees.[4] The proposed project would result in the removal of all existing trees on the site. 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 52 trees within and along the street frontage of the project site.

The project site does not support riparian habitat or federally protected wetlands. There are no creeks or waterways located within the vicinity of the project site. Lower Penitencia Creek is located approximately 1,500 feet south of the project site. The TASP FEIR 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. Therefore, the 720 Montague Project would have no direct impact on Penitencia Creek.

The 720 Montague Project is consistent with the type of development analyzed within the TASP FEIR. Demolition and tree removal activities would be conducted in conformance with TASP Policy 5.27 and would the City's Tree Ordinance. As such, there is no new impact on biological resources.

APPLICABLE MITIGATION

No new mitigation measures are required.

[4] Neck of the Woods Tree Service, 2015. *Arborist Report, 720 Montague Expressway, Milpitas, CA*. July 28.

APPLICABLE POLICIES

TASP Policies

- *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.*

Municipal Tree and Planting Ordinance

- *The Tree and Planting Ordinance of the City of Milpitas protects significant trees, as defined by the Ordinance, including heritage trees, throughout the city. A tree removal permit is required to remove any protected tree and compensation for lost trees may be requested by the City (Ord.201.1, 3/1/88).*

CONCLUSION

The TASP FEIR adequately evaluated the potential biological impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR concluded that the potential impact of development within the Specific Plan area on cultural resources, including historic, archeological and paleontological resources and human remains would be less than significant. However, the TASP FEIR concluded that a disturbance to cultural resources could occur during grading and development of individual project sites 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 FEIR 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.[5] The existing structures that would be demolished as part of the project are approximately 25 to 30 years old,[6] 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 during project construction, and would be required to follow TASP Policies 5.34 and 5.35 during earth moving activities. Construction of the 720 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.

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[5] 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.

[6] Eras Environmental, Inc., 2007. *Phase I Environmental Site Assessment, 720 Montague Expressway, Milpitas, California*. January 29.

All future development in the TASP 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 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

TASP 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 FEIR adequately evaluated the potential cultural resource impacts of the 720 Montague Project and no new impacts would result.

	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:	☐	☐	☐	☒
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.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR 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 FEIR found that slope instability hazards are also minimal because the surface area in the Specific Plan area is relatively level.

The TASP FEIR 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 FEIR states that State of California building codes and construction standards contained in Title 24 of the California Code of Regulations reduce impacts to a less-than-significant level. The 720 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 720 Montague Project is consistent with the type of development analyzed in the TASP FEIR and is required to adhere to General Plan and TASP policies relating to building standards and emergency service needs. The 720 Montague Project submitted a Stormwater Control Plan on August 31, 2015.[7]

In addition, a geotechnical investigation was prepared for the project site.[8] The findings of the geotechnical investigation indicated that shallow groundwater occurs at the project site relative to the proposed building foundation and excavation depth and that suitable lateral support and dewatering for the proposed excavation would be required in order to minimize impacts to the surrounding improvements, including the nearby BART parking garage structure. The geotechnical investigation makes specific recommendations to lessen these constraints, including: designing the building foundation and below grade walls to resist hydrostatic pressures, including waterproofing, and the use of excavation shoring and dewatering systems.

[7] Wood Rodgers, Inc., 2015. *Stormwater Control Plan for 720 Montague, Milpitas, CA.* August 31.

[8] Rockridge Geotechnical, 2015. *Geotechnical Investigation for 720 Montague Expressway, Milpitas, CA.* August 6.

Implementation of the measures and recommendations identified in the geotechnical report would be required as a Condition of Approval. In addition, the project applicant is required to conduct a site-specific design-level geotechnical study that provides specific recommendation that the project must implement. Since the 720 Montague Project would comply with TASP policies, including implementing the recommendations of the preliminary geotechnical report, there is no new impact related to geology and soils.

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.

TASP 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 discharges.*

CONCLUSION

The TASP FEIR adequately evaluated the potential geology and soil impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR found that the primary sources of greenhouse gas (GHG) emissions related to urban development in the TASP 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 would occur during the implementation of the TASP. Since the GHG emission rate is related to growth, the TASP promotes policies that reduce energy consumption and fuel usage by encouraging development patterns that would 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 FEIR 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 TASP. The TASP FEIR 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 FEIR also found that the increase in VMT will not prevent the reduction of statewide GHG emissions to 1990 levels.

Individual projects incrementally contribute toward the potential for global climate change on a cumulative basis in concert with all other past, present, and probable future projects. While individual projects are unlikely to measurably affect global climate change, each of these projects incrementally contributes toward the potential for global climate change on a cumulative basis, in concert with all other past, present, and probable future projects.

The TASP FEIR analyzed the potential GHG emissions that would result from buildout of the TASP. The TASP was designed to provide residential uses in proximity to retail and commercial uses and to transit, such as the BART station, to minimize the use of vehicles and generation of VMT. TASP policies also encourage the development of pedestrian friendly streets and bikeways to promote alternative forms of transportation. The proposed project would incorporate the TASP policies by: providing continuous pedestrian sidewalks and safe bike travel routes, consistent with Policy 3.21; providing direct walking routes to schools and major destinations such as retail developments consistent with Policy 3.22; encouraging children to walk to school by providing safe routes consistent with Policy 3.23; and providing bikeways and bike storage and providing parking areas that encourage carpooling and use of low emission vehicles consistent with TASP Policies 3.28, 3.31, 3.33 and 3.34. The TASP FEIR concluded that implementation of these measures would reduce

impacts from GHG emissions for the TASP to less-than-significant levels. As the proposed project would remain in compliance with these policies, the project's impact on GHG emissions would also be less than significant.

Regarding electricity consumption, the TASP FEIR found that the increase in total demand for electrical energy as a result of the TASP would be reduced to less-than-significant levels by requiring compliance with State, local, and TASP energy efficiency policies. These policies (outlined below) will ensure that the additional energy that homes and businesses consume would 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 TASP Area would be less than significant. Additionally, the proposed project would encourage and support energy efficiency and green building techniques that would reduce energy-related GHG emissions, similar to the previously approved TASP FEIR.

Implementation of the proposed project would not result in an increase in GHG emissions beyond those analyzed in the TASP FEIR and impacts would remain less than significant.

The TASP FEIR did not include an evaluation of the project's compliance with the City's 2013 Climate Action Plan which was not in place at the time the FEIR was certified. The Climate Action Plan includes GHG reduction goals, policies, and actions for new and existing development projects. The proposed project includes transit oriented development in addition to the TASP policies listed below, which are consistent with the Climate Action Plan's transportation and land use goals. Therefore, the project would be in conformance with the City's Climate Action Plan (CAP).

The 720 Montague Project adheres to the building guidelines of the TASP, 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 many existing trees, the project would comply with City ordinances and requirements for replacing and planting new trees, which would help offset GHG emissions. The proposed project would result in no new or more severe impacts related to GHG emissions than analyzed in the TASP FEIR and further analysis is not required.

APPLICABLE MITIGATION

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

APPLICABLE POLICIES

TASP Policies

- *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: See this policy in Section III, Air Quality.*
- *Policy 3.22: See this policy in Section III, Air Quality.*
- *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: See this policy in Section III, Air Quality.*
- *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 FEIR adequately covered the GHG emissions impacts of the 720 Montague Project and no new impacts related to GHG emissions would result.

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR concluded that due to past land uses and previously reported hazardous material releases and spills in the Specific Plan area, 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 FEIR found that any impact from potential exposure during construction can be reduced to a less-than-significant level with implementation of TASP policies.

Existing structures that would be demolished in the Specific Plan area could include hazardous building materials such as asbestos, polychlorinated biphenyls (PCBs), or lead-based paint. TASP Policy 5.21 requires applicants to submit information to the City regarding asbestos-containing building materials, PCBs, and lead-based paint in existing buildings proposed for demolition. The 720 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.

A Phase I Environmental Site Assessment (Phase I) was prepared for the project site.[9] The Phase I determined that the existing building does not contain lead-based paint or PCBs. However, due to the age of the building, it is possible that there are asbestos containing materials (ACM) present. ACMs may become a hazard if the materials are disturbed during demolition activities. The Phase I recommends that all suspected ACM materials should be tested prior to demolition activities or other activities that could damage them.[10]

According to the Phase I, the project site is not listed on a federal or State environmental database regarding groundwater contamination. However, an adjacent site, 700 Montague Expressway, is listed in the State database. The 700 Montague Expressway property was used for battery manufacturing between 1956 and 1981. The battery manufacturing activities included the use of a waste settling pond located on the southern side of the site. The soil associated with this pond was later excavated and disposed of in compliance with a formal closure plan. The area was later refilled with clean soil and lime to neutralize any residual acid. Soil sampling confirms that lead contamination is known to remain in soils deeper than 5 feet below ground surface in the former pond area. The surface of this

[9] Eras Environmental, Inc., 2007, op. cit.

[10] Ibid.

site is sealed with paved areas and was redeveloped with storage facility buildings in 1995. Based on remediation of the 700 Montague Expressway site and the impermeable cap over the site to prevent water from percolating into impacted areas, this site is not considered likely to pose a threat to subsurface conditions beneath the project site.[11]

The Phase I also identified two closed leaking underground storage tank (LUST) cases located within 300 feet of the project site at 1535 Gladding Court and 1570 Gladding Court. These properties had LUSTs which have since been removed and these cases have been respectively closed. The Phase I determined that based on the case closures and site remedial action certifications, neither of these properties poses a threat to subsurface environmental conditions beneath the project site.[12]

The Phase I also concluded that there was no evidence to indicate that historic activities on the project site contributed contamination to soil or groundwater. The Phase I recommends that any remaining equipment, batteries, and/or debris on the site be properly disposed of and residual oil staining be cleaned or absorbed. In addition, the Phase I recommends that an ASTM standard interview questionnaire be completed. Implementation of the measures and recommendations identified in the Phase I would be required as a Condition of Approval.

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. TASP Policies 6.49, 6.50, and 6.52 would ensure that adequate emergency services are available. The project site is not located in or adjacent to a wildland area and would not be subject to wildland fire risks.

The 720 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 TASP policies, including Policy 5.20, 5.21 and 5.22, and would incorporate the recommendations provided in the Phase I, there are no new impacts on hazards and hazardous materials.

APPLICABLE MITIGATION

No new mitigation measures are required.

APPLICABLE POLICIES

TASP 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*

[11] Ibid.

[12] Ibid.

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 (ESLs[2]) 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 FEIR adequately evaluated potential impacts related to hazards and hazardous materials at or affecting the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
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)?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
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?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
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?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR 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 FEIR concluded compliance with specific municipal policies, General Plan and TASP 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 TASP 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 applicant submitted a Stormwater Control Plan as part of the project application materials.[13] The City will confirm that this plan conforms to all applicable local and State requirements.

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 TASP Policies 5-36 and 5-37 would ensure the impacts would be less than significant.

The Specific Plan area is within a Federal Emergency Management Agency (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 subdistrict. Additional impacts related to the floodplain could occur, however, several local and TASP policies identified in the TASP FEIR would reduce the impact to less-than-significant levels.

Since the project site is located in a FEMA special flood area, a flood study was conducted for the project site.[14] The analysis found that the project site is located in areas of 500-year flood and flood waters less than 1 foot deep. Therefore, the study concluded that the 720 Montague Project site is not in a special flood hazard area. The report also concluded that there would be no significant impacts offsite, taking into account cumulative conditions of the buildout of five adjacent TASP development projects. In relation to the future Milpitas BART station that is currently under construction, the study concluded that there would be no significant impacts to either of the sites once the BART project was complete. The Montague Bridge replacement at Berryessa Creek would raise Montague Expressway. However, the flood study determined that the raised portion of the road would have no significant impact on the 100-year flood plain at the project site. The capacity would be increased with the Montague Bridge replacement, however, due to restrictions on flow conditions, the flood study

[13] Wood Rodgers, Inc., 2015, op. cit.

[14] Schaaf and Wheeler Consulting Civil Engineers, 2015. *720 Montague 100-Year Floodplain Analysis*. December 15.

concluded that the bridge replacement would not change the hydraulics and spills associated with the 100 year flood plain.[15]

The Floodplain Analysis found that the proposed project complies with the City of Milpitas Floodplain Ordinance Section XI-15-4.3 (a) (4) and states that the proposed project must comply with the following requirements from FEMA and the City of Milpitas to be removed from the floodplain:

- The residential finish floor elevation is one foot above the highest adjacent grade plus the flood depth thereby complying with the City of Milpitas floodplain ordinance section XI-15-5.1(c)(1) for structures in an AO zone.
- The lowest adjacent grade to the building within the AO(1) flood zone is above the base flood elevation therefore the project is reasonably safe from flooding per the City of Milpitas floodplain ordinance section XI-15-4.3 (a)(3).
- FEMA requires the lowest elevation within an area of land be higher than the base flood elevation to remove the land beneath the podium structure from the flood hazard area. A CLOMR-F and LOMR-F will be filed with FEMA during planning and after placement of fill respectively to remove the proposed land beneath the podium structure defined by a metes and bounds description from the floodplain.
- The project will design its utilities to minimize or eliminate the infiltration of floodwaters into the system and discharge from the system to comply with Milpitas Ordinance XI-15-5.2. Onsite waste disposal systems shall be located outside of the FEMA SFHA.
- The mixed-use podium structure will be required to obtain flood-proofing certification prior to occupancy per sections XI-15-5.1(c)(2)& XI-15-5.1(c)(3).

While the 720 Montague Project conforms to the TASP FEIR, the proposed project would be required to comply with the above recommendations as a Condition of Approval. With conformance to these recommendations, the proposed project would result in no new impacts 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)

[15] Ibid.

- 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.*

TASP 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 FEIR adequately evaluated the hydrology and water quality impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

DISCUSSION

The TASP FEIR 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. Implementation of the Specific Plan would 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 are 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 due to the transit-oriented character of the development. 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 is designated Boulevard Very High Density Mixed Use. The entire project site is located within the Transit Oriented Development Overlay (TOD) district and is entitled to development density bonuses of up to 25 percent with a Use Permit. 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 2.5 FAR may be permitted on individual sites in this land use designation. In addition, building heights of 4 to 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. However, with the Transit Oriented Development designation, a density of up to 75 dwelling units per acre is permitted plus up to 25 percent additional density increases with a Use Permit. Small local-serving retail, office, and live/work uses are permitted at ground floor levels. Assuming the additional 25 percent density bonus, the 720 Montague Project complies with the standards the Boulevard Very High Density Mixed Use (TOD) land use designation and would develop within the range of the density and intensity standards from what was assumed in the TASP FEIR.

The TASP FEIR 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 TASP 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 Montague Corridor subdistrict. 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 and high profile residential buildings that are near a major transit station. The goal of the Montague District is to provide a distinct and positive identity to the City and the TASP area and the proposed project meets the requirements of the District to support that goal. As such, the proposed project would conform to the development standards of the Montague subdistrict, which lessens the impact of incompatible adjacent uses.

Since the land use impacts of the 720 Montague Project are consistent with the impacts identified in the TASP FEIR, 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

TASP 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.*

CONCLUSION

The TASP FEIR adequately evaluated the land use impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

The City of Milpitas General Plan does not identify mineral resources within the Specific Plan area. Therefore, the 720 Montague Project would have no impact on mineral resources.

CONCLUSION

The TASP FEIR adequately evaluated the mineral resource impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

Construction-Period Impacts

The proposed project would be consistent with the buildout projected for the TASP, and would implement the policies identified in the TASP FEIR to reduce potential noise impacts to less-than-significant levels. Construction of the project would adhere to the noise standards and requirements set forth in the City's Municipal Code and General Plan. The project would implement the measures identified in the TASP for addressing noise, including providing disclosures to future residents per Policy 5.17, and requiring temporary buffers if residents are placed next to existing industrial uses per Policy 5.19.

As described in the TASP FEIR, construction noise impacts would vary depending on proximity to sensitive receptors, the presence of intervening barriers, and the number, types, and duration of construction equipment used. Compliance with the General Plan and TASP policies would ensure that construction noise impacts would be less than significant.

The City's Noise Abatement Ordinance would restrict construction hours to between 7:00 a.m. and 7:00 p.m. The City's General Plan Policy 6-I-13 would minimize construction noise impacts by restricting the hours of operation, technique, and equipment used. Additionally, the TASP Policy 5.15 requires that construction noise be mitigated to the extent feasible to reduce exposure of sensitive receptors.

The proposed project would not result in any new or more significant construction-period noise impacts than were described in the TASP FEIR. Implementation of the Noise Ordinance, the City of Milpitas General Plan, and the TASP, as included in the TASP FEIR, would reduce construction noise impacts to a less-than-significant level.

Construction Groundborne Vibration Impacts

Construction activities are known sources of groundborne vibration. Vibration impacts could occur during construction of the proposed project, which would require the use of heavy excavation equipment, and the possible use of pile-driving equipment. To determine potential construction vibration impacts, an impact evaluation is described below.

When assessing annoyance from groundborne noise, vibration is typically expressed as root mean square (rms) velocity in units of decibels of 1 micro-inch per second. Vibration levels, different from noise levels, are written as vibration velocity decibels (VdB). However, construction vibration impacts on building structures are generally assessed in terms of peak particle velocity (PPV). Therefore, for purposes of this analysis, project-related impacts are expressed in terms of PPV.

Typical groundborne vibration levels measured at a distance of 25 feet from heavy construction equipment in full operation, such as vibratory rollers, range up to approximately 0.210 PPV. Based on the Federal Transit Administration (FTA) data, large bulldozers generate 0.089 PPV at 25 feet and small bulldozers generate 0.003 PPV at 25 feet. Loaded trucks generate 0.076 PPV at 25 feet, an impact pile driver generates 0.644 PPV at 25 feet, and a sonic pile driver generates 0.170 PPV at 25 feet. Except for the impact driver, these vibration levels would not be expected to cause damage to residential buildings of typical northern California construction.

As stated in the TASP FEIR, the proposed project is mixed-use and therefore could expose sensitive receptors to unacceptable levels of groundborne vibration, specifically from Amtrak and freight trains along the Union Pacific Railroad (UPRR) tracks, including the spur line, and from the operation of BART trains along the proposed BART expansion into the TASP area. The Santa Clara Valley Transit Authority's BART Expansion SEIR indicated that vibration impacts at existing receptors in the Planning Area and within 100 feet of the proposed tracks would be mitigated to a less-than-significant level (less than the 72 VdB significance threshold for frequent events affecting Category 2 land uses) by either using a floating slab track or by using tire derived aggregate under ballasted track.[16]

The proposed project would be more than 500 feet from the future BART station and therefore, the proposed project would not result in any new or more significant groundborne vibration impacts than were described in the TASP FEIR. In addition, implementation of TASP policies would reduce potential groundborne vibration impacts on future or existing sensitive receptors to less-than-significant levels.

Operational-Period Impacts

The project would result in an increase in people living close to transit stations which could expose sensitive receptors to higher noise levels from train and future BART activity. However, this condition would not result in any impacts that would be more severe than those analyzed in the TASP FEIR. The proposed project would be required to install mechanical ventilation under General Plan Policy 6-I-5 so that windows can remain closed.

Stationary Noise Source Impacts

The proposed long-term use of the project site is mixed-use transit oriented development. Potential long-term stationary source impacts at the project site would be primarily associated with transportation activities and operations associated with delivery truck activities. The proposed

[16] Transportation Authority, Santa Clara Valley, 2010. *BART Silicon Valley Environmental Impact Report.* November.

commercial uses could result in noise from mechanical equipment and other on-site sources (e.g., air-conditioning or other mechanical ventilation equipment, delivery loading docks or areas, emergency generators), which would create noise at the nearby sensitive receptors. However, the proposed project would not increase stationary source noise impacts above those analyzed in the TASP FEIR.

Aircraft Noise Source Impacts

According to the City's current and projected noise contours for San José International Airport, the project site is not within an area exposed to aircraft noise levels greater than 60 dB CNEL. Therefore, per TASP FEIR analysis, aircraft noise would have no impact on the project site.

Traffic Noise Impacts

Although the proposed project would result in an increase in traffic noise levels over existing conditions on the street network in its vicinity, it would not result in any additional or more severe noise impacts than were addressed in the TASP FEIR. Policies included in the TASP and the City's General Plan would ensure that traffic noise impacts would be less than significant.

Significant noise impacts, as a result of traffic, are expected for segments of Montague Expressway, which is adjacent to the project site. Noise analysis conducted for the TASP FEIR found that traffic noise levels along the Montague Expressway correspond to daily, 24-hour noise levels between 65 to 70 dBA L_{dn}, which is considered *conditionally acceptable* per the City of Milpitas General Plan land use noise compatibility guidelines.[17] Therefore, under General Plan Policy 6-I-2 an acoustical study would be required for this project site. If the acoustical study demonstrates that noise levels would be above acceptable interior noise levels of 45 dBA L_{dn}, noise reduction measures may be required. Noise reduction measures may include mechanical ventilation and higher STC ratings for exterior windows and doors. Implementation of noise reduction requirements recommended in the acoustical study, if any, would ensure that project residents and commercial employees would not be exposed to excessive noise levels and no new noise-related impacts would result.

APPLICABLE MITIGATION

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and 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.*

[17] Ibid.

- *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.*
- *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.*

TASP 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 FEIR, after implementation of the General Plan Policies, adequately covered the noise impacts of the 720 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)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

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 FEIR evaluated potential environmental impacts associated with approximately 7,100 residential units and 18,000 new residents within the Specific Plan area. The TASP FEIR 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.[18]

The TASP FEIR 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 FEIR 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 FEIR, the project would result in no new impacts associated with population and housing.

Table 1: Existing and Proposed Housing Units and Population within the TASP Area

	Evaluated Within The TASP FEIR	Approved and Not Yet Under Construction	Approved and Under Construction	Proposed Project	Remaining Development Available
Housing Units	7,109 [a]	3,926	1,548	216	1,419
Population	17,915 [a]	9,894 [b]	3,901 [b]	545[b]	3,575

[a] Milpitas, City of. 2008. *Milpitas Transit Area Specific Plan Final Environmental Impact Report* .May.
[b] Estimated population associated with approved units, under construction units, and the TASP was determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).
Note: The number of "Approved" and "Under Construction" units identified in the above table reflect the number of units known to LSA as of February 25, 2016. Additional units associated with proposed development in the TASP area, which may be approved or under construction after this date and prior to approval of the proposed project, would be tracked by City staff to ensure that new projects fit within the housing and population projections identified in the TASP and evaluated in the FEIR.
Source: LSA Associates, Inc., 2016.

APPLICABLE MITIGATIONS

No new mitigation measures are required.

[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.

CONCLUSION

The TASP FEIR adequately evaluated the population and housing impacts of the 720 Montague Project and no new impacts would result.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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?	☐	☐	☐	☒
ii. Police protection?	☐	☐	☐	☒
iii. Schools?	☐	☐	☐	☒
iv. Parks?	☐	☐	☐	☒
v. Other public facilities?	☐	☐	☐	☒

DISCUSSION

The Specific Plan area contains portions of three school districts: the Milpitas Unified School District (MUSD), Berryessa Union School District (BUSD), and East Side Union School District (EUSD). The TASP FEIR 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 FEIR concluded that build-out of the Specific Plan will require at least one new elementary school within MUSD and the expansion of existing facilities. The TASP FEIR 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 an East Side Union School Districts attendance boundaries. Projected student enrollment rates associated with the build-out of the TASP are as follows: 233 students for EUSD and 330 students for BUSD.[19]

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

Due to the project's location, school-aged children would be expected to attend Northwood Elementary and Morrill Middle School in the BUSD.[20] Northwood Elementary has a current student enrollment of 446[21] and a capacity of 648.[22] The TASP identifies the elementary school student generation rate for the District as 0.046 students per unit.[23] As such, the proposed project would generate 10 new students that would attend Northwood Elementary. Morrill Middle School has a current enrollment of 730 students[24] and a capacity of 1,024 students.[25] The TASP identifies the middle school student generation rate to be 0.016 students per unit.[26] Based on this rate, the proposed project would generate 4 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.[27] Independence High School has a current enrollment of 3,126 students[28] 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 216 residential units, the expected number of high school-aged students generated from the proposed project would be 17, 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 joint 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 indicated above, residential growth associated with implementation of the proposed project would fall within the growth parameters evaluated within the TASP FEIR and the proposed project's impacts on schools have been adequately analyzed in the TASP FEIR; as such, the project would not result in a new impact to school facilities.

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

[21] California, State of, 2015. Department of Education. Data and Statistics. Website: dq.cde.ca.gov/dataquest (accessed December 23, 2015).

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

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

[24] California, State of, 2015. Department of Education, op cit.

[25] Berryessa Union School District,2015, op. cit.

[26] Ibid.

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

[28] California, State of, 2015. Department of Education, op cit.

[29] Ibid.

[30] Ibid.

The TASP FEIR 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 FEIR noted that under the National Fire Protection Association (NFPA) standard of one firefighter per 1,000 residents, 18 new firefighters would be needed to serve buildout of the Specific Plan. 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, impacts to the provision of fire services are anticipated to be less than significant. As the population and housing units proposed by the project would fall within the total development anticipated by the TASP FEIR, the project would result in no new impacts associated with fire services.

As noted in the TASP FEIR, 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 offers 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 FEIR concluded that the impacts to police services would be less than significant. The 720 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 FEIR, the project would result in no new impacts associated with fire services.

The TASP FEIR concluded that the combination of Parks/Plazas and Linear Parks meets the expected park requirements for the TASP 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 FEIR 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 720 Montague Project includes landscape buffers on all street frontages that would meet the requirements for public open space in the TASP..

The TASP FEIR adequately evaluates public service impacts and the proposed project's impacts are adequately included in and analyzed by the TASP FEIR. Therefore, the 720 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.*

TASP 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 FEIR adequately evaluated the public service impacts of the 720 Montague Project and no new impacts would result.

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

DISCUSSION

Public parks identified in the Specific Plan have three main forms: Parks/Plazas, Linear Parks, and Landscape Buffers. The TASP FEIR 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 14,750 square feet of open space on the site, including two interior courtyards. The majority of the units would have private open space in the form of balconies. The proposed project would also include a swimming pool, patios, sitting areas and passive open lawn areas available to residents only. The proposed project would comply with Policy

3.41 which requires new development to contribute in-lieu fees and dedication of parkland for future parks and trails within the TASP area. In addition, the proposed project would conform to the open space and landscape buffer requirements outlined in the TASP, which indicate that the Montague Expressway and South Milpitas Boulevard street frontages should include landscaped buffers (per TASP Figure 3-6).

The TASP FEIR 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 FEIR. 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.*

TASP 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 3.41: 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 3.43: 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 3.45: Private development within the Transit Area must meet the private open space requirements on a project-by-project basis.*

CONCLUSION

The TASP FEIR adequately evaluated the recreation impacts of the 720 Montague Project and no new impacts would result.

	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)?	☐	☐	☐	☒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
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?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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?	☐	☐	☐	☒

DISCUSSION

This section compares traffic impacts from the proposed project with impacts identified in the TASP FEIR. A Traffic Impact Analysis (TIA) was prepared to evaluate localized and site access traffic improvements for the proposed project and is referenced in this section.[31] The report includes an analysis of the project's proposed driveway on the Gladding Court/future Milpitas Boulevard Extension.

Trip Generation

The TIA uses trip generation rates and site trip generation calculation procedures from the TASP. The trip generation data are used to assign trips to project driveways and adjacent streets and to conduct a site access operational analysis. The TIA assumed that the proposed project would generate a net total of 231 AM peak hour trips and 278 PM peak hour trips compared to existing conditions.

Intersection Level of Service Impacts

The TIA identified future traffic impacts related to the proposed Gladding Court/Milpitas Boulevard Extension intersection. The traffic analysis evaluated the proposed intersection using AM and PM peak hour traffic volumes for the year 2035. The traffic analysis performed an HCM (Highway Capacity Manual) traffic simulation for the future intersection. The modeled intersection would operate at level of service C or better, depending on signalization.[32] Based on this finding, no further project-specific improvements would be necessary.

The TIA also used the HCM traffic simulation to analyze vehicle queuing for the eastbound left turn movement on the Milpitas Boulevard extension to northbound Gladding Court. At the Milpitas Boulevard Extension and Gladding Court, the eastbound left-turn queue would not extend beyond the left-turn pocket length. The queue analysis anticipates that vehicles queues could be accommodated in the storage space provided. The proposed project would not require any modifications beyond those proposed by the project to accommodate vehicle queues.

[31] Hexagon Transportation Consultants, Inc. 2015. *Analysis of Gladding Court/Milpitas Boulevard Extension of the Proposed 720 Montague Expressway Development.* August 25.

[32] Ibid.

Site Circulation and Access

The project proposes one new access driveway to the project site. The driveway would be located at the end of proposed Gladding Court which is accessed from the future Milpitas Boulevard Extension. Gladding Court would be accessed by both east-bound and west-bound traffic from Milpitas Boulevard. Gladding Court would include a stop- or signalized-controlled intersection for right/left turns onto Milpitas Boulevard.[33]

Pedestrian, Bicycle, and Transit Facilities

As indicated in the TASP FEIR, the current sidewalk network within the TASP area is deficient and will not meet future demand generated by new and higher density land uses. The TASP includes: 1) sidewalks on both sides of all existing and proposed streets in its area, 2) pedestrian links between various uses such as connections to open space, and 3) a multi-use path along Penitencia Creek.

The TASP also included two pedestrian bridges; one would be adjacent to the project site over Montague Expressway at Penitencia Creek. The TASP would also separate sidewalks on high speed streets from traffic by a landscaped buffer.

Bicycle circulation was shown as lacking on Trade Zone Boulevard which is not within the project area. Based on measures included as part of the TASP, bicycle circulation would be improved.

Development due to the TASP would generate additional transit trips that existing and planned bus, light rail, and BART transit lines would be able to accommodate. Impacts from development of the project site were also analyzed for the TASP analysis. The proposed project would not cause any additional or more severe impacts to sidewalks, bicycle circulation, or transit services than were identified in the TASP FEIR.

APPLICABLE MITGATION

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

APPLICABLE POLICIES

TASP 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.*

[33] Ibid.

- *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 FEIR and project-specific TIA adequately evaluated the transportation impacts of the 720 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. Therefore, the 720 Montague Project would not create any new transportation impacts.

	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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
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?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
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?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, State, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

DISCUSSSION:

The TASP FEIR 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 FEIR 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 FEIR 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 FEIR 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 FEIR 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 FEIR 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 FEIR 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 FEIR 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 FEIR found that citywide cumulative wastewater generation would exceed the City’s current Water Pollution Control Plant (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 FEIR 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 FEIR 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. TASP policies 6.16, 6.17 and 6.20 are designed to reduce this impact to a less-than-significant level.

The TASP FEIR 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 FEIR 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 FEIR adequately addresses utilities and service systems, and the development associated with the 720 Montague Project's falls within the development assumptions evaluated in the TASP FEIR, the proposed project has no new impact on utilities and public services. In addition, the 720 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

TASP 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 FEIR adequately evaluated the utilities and service system impacts of the 720 Montague Project. In addition, the 720 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.

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C. COMMUNICATION

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