



# MILPITAS PLANNING COMMISSION STAFF REPORT

June 22, 2016

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- APPLICATION:** **TIME EXTENSION FOR THE EDGE – TE16-0001** – A request for a time extension for the previous approval of a Major Vesting Tentative Map, Site Development Permit and Conditional Use Permit for the construction of 381 apartment dwelling units, 8,100 square feet of commercial and office space and associated site improvements on 5.6 acres
- RECOMMENDATION:** **Staff recommends that the Planning Commission: Adopt Resolution No. 16-021 extending permits MT13-0006, SD13-0012, and UP13-0011, 18 months until December 17, 2017.**
- LOCATION:**  
Address/APN: 765 Montague Expressway (APN's 086-32-026,029)  
Area of City: Transit Area Specific Plan (TASP) area – Montague Corridor Sub district
- PEOPLE:**  
Project Applicant: Jim Sullivan, SCS Development Company  
Consultant(s): Jorge Duran, RJA Civil Engineers  
Property/Business Owner: SCS Development Company, a California Corporation  
Project Planner: Michael Fossati, Senior Planner
- LAND USE:**  
General Plan Designation: Boulevard Very High Density, Mixed Use (BVMU)  
Zoning District: Mixed Use, Very High Density (MXD3)  
Overlay District: Transit Oriented Development (TOD) and Site and Architectural Overlay (S)
- ENVIRONMENTAL:** A finding is proposed that this project is within the program of the Transit Area Specific Plan EIR and no further action is required.

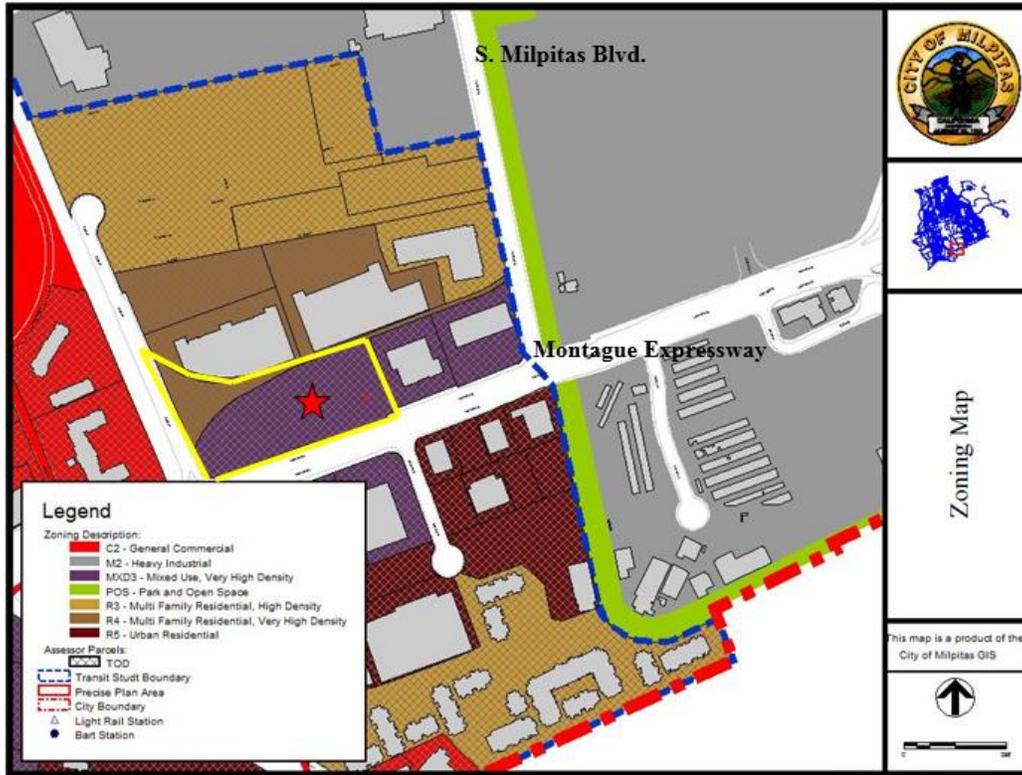
## EXECUTIVE SUMMARY

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On June 17, 2014, the City Council adopted Resolution No. 8382, approving multiple project entitlements to allow the construction of a new five-story, 381 unit mixed-use apartment building, including 8,100 sq. ft. of commercial tenant space and two interior courtyards. The entitlements are valid for an initial two-year period, but can be extended by the Planning

Commission for up to 18 additional months. The applicant has requested this one-time permit extension.

**Map 1**  
**Project Location**



## Map 2 Project Site



### **BACKGROUND**

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#### *History*

The project was previously recommended for approval by the Planning Commission (May 14, 2014) and approved by the City Council on June 17, 2014. As approved, the project consisted of constructing a 381 unit mixed-use apartment building including 8,100 sq. ft. of commercial tenant space, a six level parking structure and two interior courtyards. To realize the project, the applicant requested and received approvals for:

- Site Development Permit: To allow the construction of the buildings and site improvements;
- Major Vesting Tentative Map: To allow the subdivision of the parcel into one lot for condominium purposes and two common area lots.
- Conditional Use Permit: To allow a Major Vesting Tentative Map for condominium purposes as well as to allow exceptions to the Transit Area Specific Plan (TASP)

regarding ceiling heights for the retail spaces, increasing the block length, and allowing ten limited term parking spaces on the public street for the commercial/office use.

The project is covered under the scope of activities approved with the TASP Environmental Impact Report (EIR) SCH#2006032091, which was certified by the City Council in June 3, 2008. A finding was made in that the project is within the TASP EIR and no further action is required.

### ***The Application***

The application for extension was filed on April 21, 2016. The Major Vesting Tentative Map entitlement was set to expire on June 17, 2016. State and local law allow a Tentative Map to be extended following the submission of an application for extension filed before the expiration of the map. Once such an application is filed, the life of the map is automatically extended for an additional 60 days or until the application is approved, conditionally approved, or denied, whichever happens first (see *Government Code § 66452.6(e)*). If the Planning Commission were to deny the application for an extension, the applicant may appeal to the City Council within 15 days after the request had been denied.

### **FINDINGS FOR APPROVAL (OR DENIAL)**

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The Municipal Code contains no required findings that must be made in order to grant a map extension (see *Municipal Code Section XI-1-4.06*); rather, it merely provides that an application for an extension “shall state the reasons for requesting the extension.” The applicant has submitted a letter referencing that the proposed extension was due to prolonged lease negotiations with current tenants of the site (see Attachment B).

As described above, the applicant has timely filed an application requesting the Planning Commission extend the existing entitlements 18 months, as allowed under the City’s municipal code and state law, in order to enable completion of negotiations regarding the relocation of current tenants. There are no proposed changes from the previously approved project, and there have been no significant changes at the project site or within the project vicinity.

As set forth above, there are no specific findings that are required in order to grant a requested extension to the life of a Tentative Map (and its associated entitlements). However, the findings upon which the map and other entitlements were originally approved are set forth in the original staff report prepared for the Council Resolutions approving the project. These resolutions can be found attached, under Exhibit A to Attachment A.

Pursuant to Section XI-64.07 D, the Commission was required to find that the project was consistent with the findings required for each entitlement. The factual bases for these findings remain unchanged.

### **ENVIRONMENTAL REVIEW**

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The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). This project is included within the area evaluated as part of the TASP EIR, certified by City Council on June 3, 2008. The project is

covered under the scope of activities approved by that EIR. A finding is proposed that this project is within the program of the TASP EIR and no further action is required.

### **PUBLIC COMMENT/OUTREACH**

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Staff provided public notice of the application in accordance with City and State public noticing requirements. A notice was published in the Milpitas Post on June 10, 2016. In addition, 1,083 notices were sent to owners and residents within 1000 feet of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

### **CONCLUSION**

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In conclusion, staff recommends the application for a time extension be approved, given the difficulties as described in Attachment B.

### **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing
2. Adopt Resolution 16-021, extending permits MT13-0006, SD13-0012, and UP13-0011, for 18 months until December 17, 2017.

### **ATTACHMENTS**

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A: Resolution No. 16-021 (with exhibit attached)

B: Letter of Extension Request