



## MEMORANDUM

**DATE:** July 8, 2016

**TO:** Cecilia Jaroslowsky, 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 91 Montague Expressway Project, Milpitas, California

This memorandum and attachments provide a description of the 91 Montague Expressway Project (project) and substantial evidence to confirm that the project is exempt from further environmental analysis per Section 15168(c) of the California Environmental Quality Act (CEQA). The approximately 1.8-acre project site is located at 91 Montague Expressway in Milpitas, Santa Clara County. The proposed project would involve demolition of the existing building and concrete pavements on the site and construction of 72 residential units and associated parking, open space, and landscaping.

Attachment A provides a project description of the 91 Montague Expressway 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 (included in Attachment B to this memo) 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 Midtown Specific Plan 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 FEIR and no new impacts were identified and no new mitigation measures are required.

The City can approve the 91 Montague Expressway Project as being within the scope of the Midtown Specific Plan 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 Guidelines Section 15168, the 91 Montague Expressway 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**



# 91 MONTAGUE EXPRESSWAY RESIDENTIAL PROJECT

## PROJECT DESCRIPTION

The following describes the proposed 91 Montague Project (project), which is located within the planning area for the Milpitas Midtown Specific Plan. 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

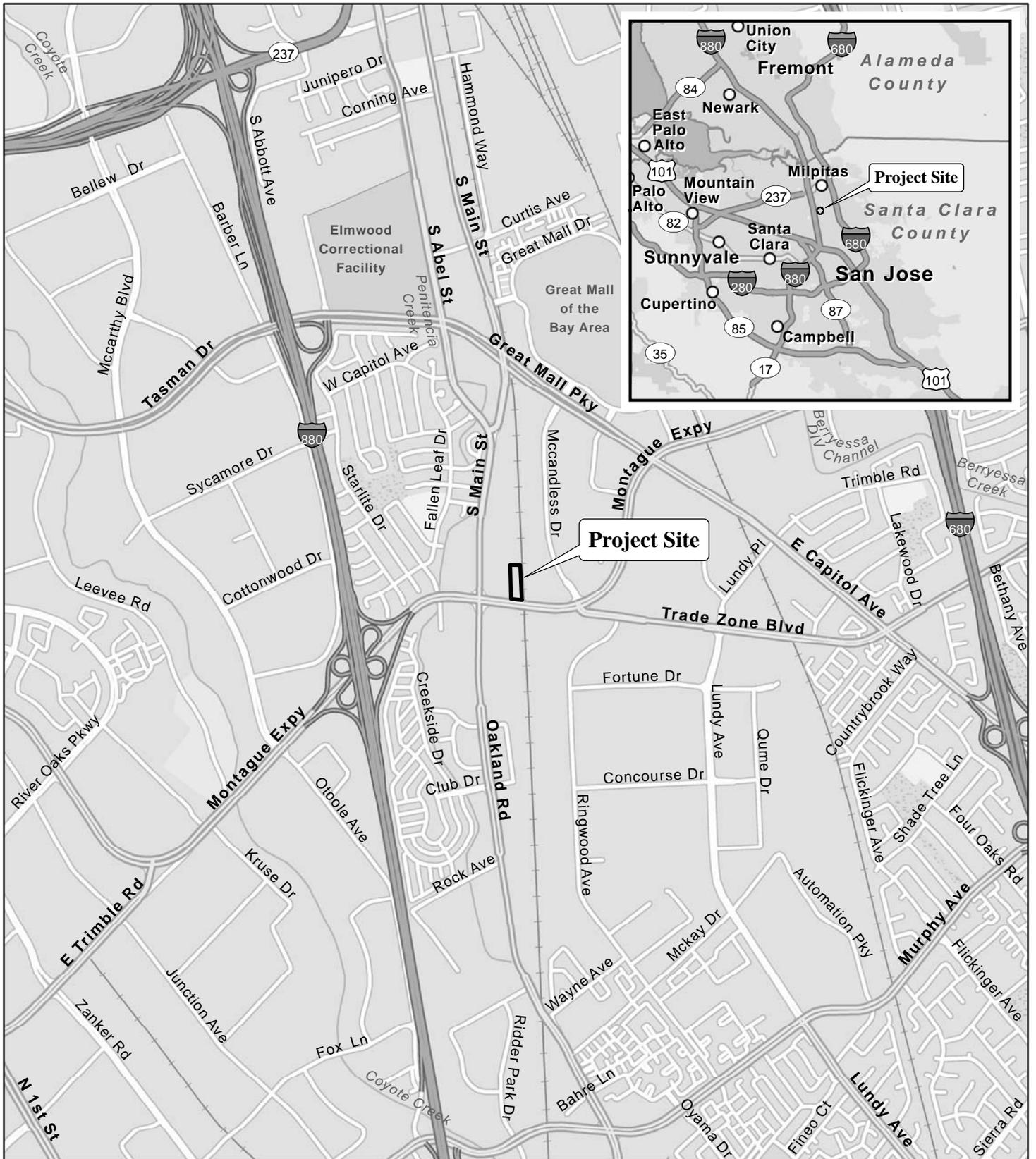
The approximately 1.8-acre project site is located at 91 Montague Expressway and is situated south of Great Mall Parkway and the Great Mall Shopping Center in the southern portion of the City of Milpitas, Santa Clara County. The project site is bounded by residential development to the north and west, Union Pacific Railroad tracks to the east, and Montague Expressway runs along the southern site boundary. Penitencia Creek is located immediately east of the Union Pacific Railroad tracks.

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 0.6 miles northeast of the project site and south of the intersection of Great Mall Parkway/East Capitol Avenue and the Montague Expressway.

Figure 1 shows the site's regional and local context. Figure 2 depicts an aerial photograph of the project site and surrounding land uses.

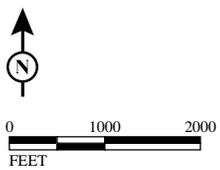
#### 2. Site Characteristics and Current Site Conditions

The generally level project site includes Assessor's Parcel Number (APN) 086-034-023. The site is currently occupied by a vacant single-story building located on the western edge of the site, towards the center of the parcel. Concrete pavements are located east and south of the existing structure. The remaining portions of the site are vacant and covered with ruderal grasses and weeds. There are no trees located on the project site. Access to the site is provided via a driveway on Montague Expressway.



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FIGURE 1



SOURCE: ESRI StreetMap North America (2012).

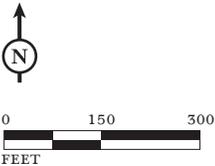
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91 Montague Expressway Residential Project  
Project Location and Regional Vicinity Map



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FIGURE 2



 Project Location

SOURCES: GOOGLE EARTH 4/5/16; LSA, MAY 2016.  
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### **3. Existing General Plan and Zoning**

The project site is currently designated in the General Plan and Midtown Specific Plan as Multi-Family Residential, Very high Density (VHD). The site is zoned Very High Density (MXD3) and located in the Midtown Specific Plan area.

### **4. Milpitas Midtown Specific Plan**

In 2002, the City of Milpitas adopted the Midtown Specific Plan<sup>1</sup> as a guide for development and redevelopment for a 942-acre area in the City of Milpitas. The Midtown Specific Plan area encompasses land near the western limits of Milpitas, generally bounded by the Union Pacific Railroad lies on the east and north, Abel Street and the Elmwood Rehabilitation Facility on the west; and the City limits to the South. The Midtown Specific Plan provides development goals and land use directives for the Midtown area for a 20-year planning horizon. Included in the Midtown Specific Plan are the following: proposed land use designation changes; a development strategy; recommended public and private improvements; and urban design recommendations, including new development regulations and guidelines.

Environmental impacts associated with implementation of the Midtown Specific Plan were previously evaluated in the Final Environmental Impact Report (FEIR).<sup>2</sup> The Midtown Specific Plan FEIR evaluates the environmental impacts of approximately: 1) 2,379 units of residential development; 2) 6,400 new residents; 3) 61,000 square feet of retail space; 4) 720,000 square feet of office space; and 5) 300,000 square feet highway-oriented retail.

### **5. Surrounding Land Uses**

The project site is located in an area consisting of light-industrial, residential and commercial uses in the City of Milpitas. The project site is generally surrounded by light-industrial and commercial uses. However, new residential units constructed as part of the Midtown Specific Plan and Milpitas Transit Area Specific Plan implementation are located to the east and west of the project site. In addition, the project site is also located southwest of the under-construction Milpitas BART station and is within close proximity to the Great Mall Shopping Center in Milpitas, located approximately 0.6 miles north of the project site.

## **B. PROPOSED PROJECT**

This section provides a description of the proposed project as identified in the materials provided by the project applicant that are dated May 3, 2016. The project applicant proposes to demolish the existing building and concrete pavements on the site and construct 72 residential condominium units. Development of the site would include parking as well as open space and landscaping throughout the project site. The proposed project would include an underground parking garage for residents and visitors. In addition, a total of eight on-street parking spaces would be provided at ground level.

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<sup>1</sup> Milpitas, City of, 2002. *Milpitas Midtown Specific Plan*. March. Amended 2010.

<sup>2</sup> Milpitas, City of, 2002. *Milpitas Midtown Specific Plan Final Environmental Impact Report*. January

Figure 3 depicts the overall conceptual site plan for the proposed project and individual project components are further detailed below.

### **1. Residential Units**

The proposed project would result in the demolition of the vacant single-story structure and limited surface pavements on the site and the development of a residential building that would face the Montague Expressway frontage. The project would develop a total of 72 units at a density of approximately 40 dwelling units per acre including 28 one-bedroom units, 26 two-bedroom units and 18 three-bedroom units. The building would also include residential amenity space including a lobby and community room. Floor plans range from 838 square feet for the smallest units to 1,860 square feet for the largest units. Total building height would not exceed 48 feet (four stories). Figure 4 depicts conceptual building elevations for the proposed project.

### **2. Open Space and Landscaping**

The proposed project would include a total of 23,051 square feet of usable open space and landscaped areas. Common open space would include two courtyards for use by project residents. In addition, the project would contain 7,096 square feet of private open space including 2,842 square feet in the form of private patios or balconies for each unit. Landscaping would be provided throughout the site, including within the courtyards and along the western portion of the site to provide a buffer with the adjacent residential development. A total of 26 trees would be planted with 22 planted along the property line abutting the Union Pacific Railroad and 4 trees along the Montague Expressway frontage.

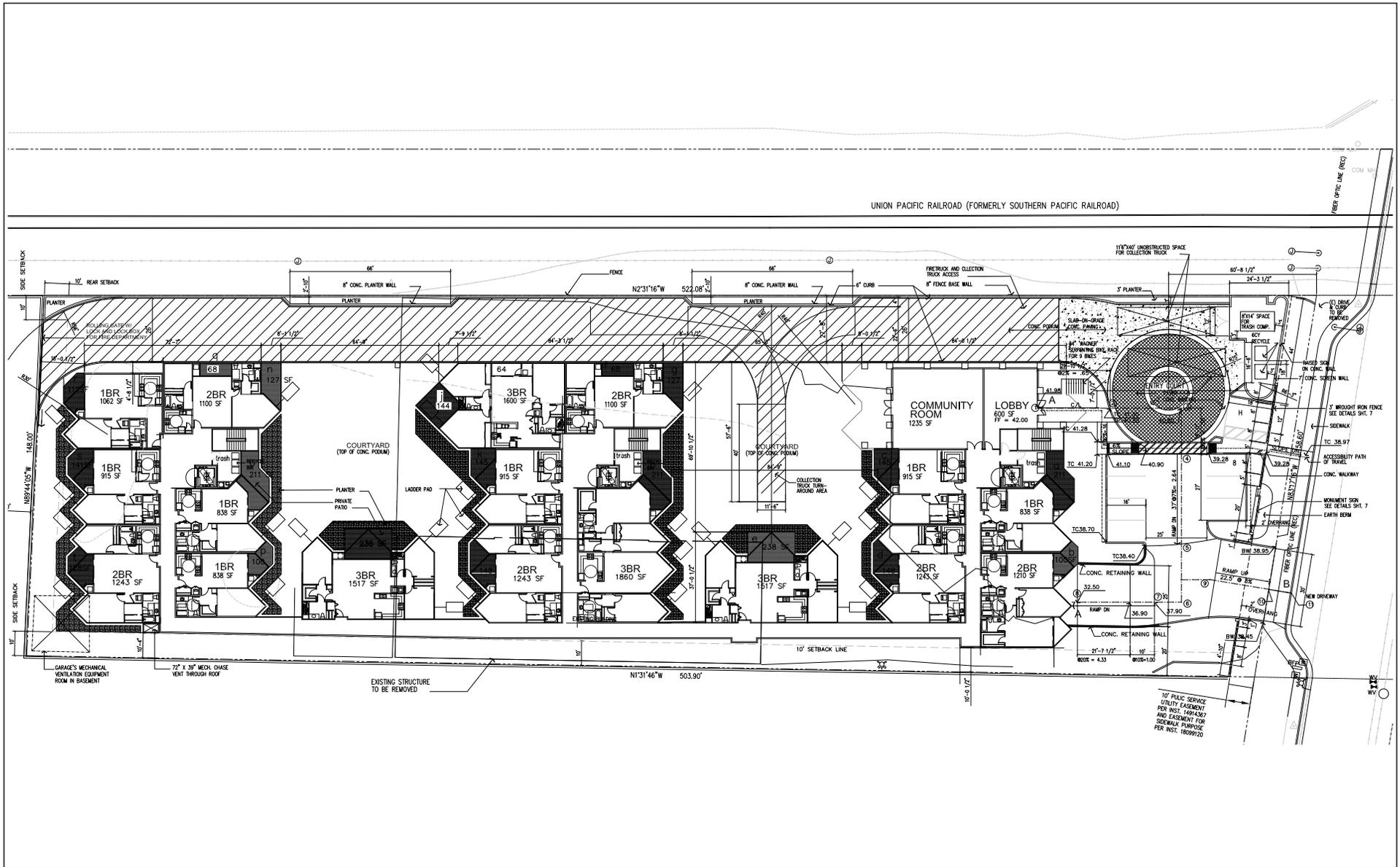
### **3. Access, Circulation and Parking**

Access to the project site would be via a new 30-foot-wide driveway from Montague Expressway. The new driveway would provide direct access to a subterranean garage where a total of 150 parking spaces would be provided. Ingress and egress to the site would accommodate fire and emergency access vehicles as well as solid waste collectors. A total of eight guest parking spaces would be provided at street-level. The parking garage would also provide a total of 24 vertical lockers for bicycles and bicycle racks for nine bicycles would be provided at the street level.

Ingress and egress to the site for fire and emergency access vehicles as well as solid waste collectors would be accommodated via an internal road on the eastern end of the project site that would connect to the driveway on Montague Avenue. Specifically, vehicles would enter the site from the new driveway, turn right and then turn left onto the new internal driveway. In addition, fire and emergency access vehicles would have access to the site from Ede Lane located north of the project site. A rolling gate with lock box for the fire department would restrict access to fire and emergency access vehicles only.

### **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.



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NOT TO SCALE



FIGURE 3

91 Montague Expressway Residential Project  
Conceptual Site Plan

SOURCE: LPMD ARCHITECTS, FEBRUARY 2015.

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LSA

FIGURE 4

NOT TO SCALE

SOURCE: LPMD ARCHITECTS, NOVEMBER 2014.

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91 Montague Expressway Residential Project  
 Conceptual Building Elevations

**a. Water.** Water service in the City of Milpitas is provided by the Santa Clara Valley Water District (SCVWD). The proposed project includes the installation of new water connections to serve the proposed project. New water lines would connect to the City's existing 12-inch lines located on Montague Expressway.

**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 a line along Montague Expressway. The proposed project includes connection to the City's existing line along Montague Expressway.

**c. Stormwater.** The existing building and impervious surfaces on the project site account for approximately 35,179 square feet (45 percent) of the project site. The remaining 42,793 square feet (55 percent) of the project is covered by pervious surfaces. Upon construction of the proposed improvements, approximately 70,639 square feet (91 percent) of the project site would be covered by impervious surfaces and about 7,333 square feet (9 percent) would be covered by landscaped areas including lawns, shrubs and trees. Water would be treated with a combination of flow-through planters, media filters and bioretention to treat runoff before entering the storm drain system.

Bio-retention areas would be incorporated into the landscape design to provide appropriate vegetation and water quality treatment in open spaces, roofs, parking areas and driveways. On-site drainage would be designed consistent with the C.3 requirements for Low Impact Development.

**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. 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.

## C. 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

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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 91 Montague Expressway Project is within the scope of the Midtown Specific Plan Final Environmental Impact Report (FEIR)<sup>1</sup> and will have no effects and no new mitigation measures are required, and as such, the City can approve the 91 Montague Expressway Project as being within the scope of the Midtown Specific Plan (Specific Plan) covered by its FEIR and no new environmental document is required. Pursuant to Public Resources Code section 21166 and CEQA Guidelines Section 15168, the 91 Montague Expressway 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
<b>I. AESTHETICS.</b> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### DISCUSSION

As described in more detail in the project description (Attachment A), the 1.8-acre site currently includes a vacant single-story buildings located on the western edge of the site and concrete pavement located east and south of the structure. The remainder of the site is vacant and covered with grass and weeds. The proposed project would result in the demolition of the existing structure and pavement on

<sup>1</sup> FEIR Milpitas, City of, 2002. *Final Environmental Impact Report for the Midtown Milpitas Specific Plan*. January

the site. The project would construct a new residential development on the site consisting of 72 residential units and associated open spaces, landscaping and circulation improvements. As previously noted, the project site is located within the City's Midtown Specific Plan area. Specific policies that apply to the Midtown Specific Plan area are outlined further below and would be applicable to the proposed project.

The Midtown Specific Plan FEIR identified that implementation of the Specific Plan would introduce a cohesive urban form designed to reinforce pedestrian accessibility to the area. As noted in the Midtown Specific Plan FEIR, implementation of the Midtown Specific Plan would 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 8 of the Midtown Specific Plan and include policies related to street design, land use, building height, setbacks, parks and building design that are identified below.

Under the Midtown Specific Plan, the proposed project site is designated as Multi-Family Residential, Very High Density. Permitted densities for residential uses range from a minimum of 31 units per acre average gross density to 40 units per acre maximum average gross density. In addition, the maximum permitted building height is 4 stories and 60 feet under this designation. The 91 Montague Expressway Project complies with these standards and proposes 40 units per acre on the site and would be 4 stories in height and would not exceed 43 feet in height. The Midtown Specific Plan FEIR determined that implementation of the Midtown Specific Plan, including the proposed project, would not create a substantial new source of light and glare and that it would not substantially damage scenic resources. The Midtown Specific Plan FEIR identified that compliance with the development standards and design guidelines would result in improvements to the visual environment within the area.

The 91 Montague Expressway Project is consistent with the type of development analyzed in the Midtown Specific Plan FEIR; it would be within the density and height ranges analyzed within the Midtown Specific Plan FEIR and would be consistent with Midtown Specific Plan policies relating to aesthetics. As such, there is no new impact on visual and aesthetic resources.

## **APPLICABLE MITIGATION**

No new mitigation measures are required.

## **APPLICABLE POLICIES**

The proposed project would comply with the following policies.

### **Midtown Plan Policies**

- *Policy 5.3: Promote high-quality private development that contributes to the visual identity and environmental quality of the Midtown Area through the application of the Development Standards and Design Guidelines.*
- *Policy 5.5: Place street tree landscaping at the curb edges of sidewalks to improve the environment for pedestrians.*
- *Policy 6.13: Require the undergrounding of new utilities.*

- *Policy 6.14: Prioritize the undergrounding 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 undergrounding of utilities, as necessary.*
- *Policy 7.1: Enforce the Development Standards and Design Guidelines (see Section 8.0 of this plan) to ensure that new development is of a high-quality and consistent with Specific Plan objectives.*

**CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the potential aesthetic impacts of the 91 Montague Expressway Project and no new impacts would result.

**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:

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- |   | Potentially Significant Impact | Less Than Significant Impact with Mitigation | Less Than Significant Impact | No New Impact                       |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/>       | <input type="checkbox"/>                     | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

## DISCUSSION

There are not agricultural or forestry resources located within or near the project site. Midtown 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 Midtown 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 91 Montague Expressway Project.

- |  | Potentially Significant Impact | Less Than Significant Impact with Mitigation | Less Than Significant Impact | No New Impact                       |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| <b>III. AIR QUALITY.</b> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: |                                |  |                              |                                     |
| a) Conflict with or obstruct implementation of the applicable air quality plan?  | <input type="checkbox"/>       | <input type="checkbox"/>                     | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## DISCUSSION

### Air Quality Management 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 Midtown Specific Plan FEIR was the 1997 Bay Area Clean Air Plan.<sup>2</sup> 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 1997 Bay Area Clean Air Plan on population and housing projections in the 2000 ABAG Projections.<sup>3</sup> The Midtown Specific Plan FEIR found that buildout of the Midtown Specific Plan would generate additional housing units, and thus population, in the Midtown area; however the project would not result in significant growth in the San Francisco Bay region as a whole. In addition, the Midtown Specific Plan FEIR determined that because the Midtown Specific Plan encourages the use of transit, it is expected that vehicle miles traveled associated with the units proposed under the Specific Plan would be less compared to development in a more suburban location in the region. Therefore, the Midtown Specific Plan FEIR determined that the Midtown Specific Plan is consistent with the projected growth for the region and has been designed to address regional air quality considerations.

<sup>2</sup> Bay Area Air Quality Management District, 1997. *Bay Area 1997 Clean Air Plan*.

<sup>3</sup> Association of Bay Area Governments, 2000. *1999-2006 Regional Housing Needs (RHNF) 1996-2006 Allocation*.

The proposed project would locate future residents within walking distance of public transportation, jobs, restaurants, and services. Implementation of the Midtown Specific Plan includes policies that address transportation and land use that are consistent with the Clean Air Plan. Midtown Policy 3.13 requires development standards and design guidelines for mixed-use and to create a lively pedestrian development; Policy 4.2 would provide pedestrian connections between the transit stations and commercial, employment and residential destinations that are direct, attractive and interconnected with the larger city sidewalk and pedestrian path system; Policy 4.12 would establish an interconnected system of sidewalks and pedestrian paths that provides safe and convenient pedestrian access between the transit stations and other destinations within the Midtown area; and Policy 4.16 would provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.

The proposed land use and zoning of the 91 Montague Project would result in a building density at the project site that is similar to what was evaluated in the Midtown Specific Plan. Therefore, the population growth associated with the proposed project is consistent with the Midtown Specific Plan and would not result in any new impacts related to consistency with the Clean Air Plan.

The Midtown Specific Plan FEIR identified Mitigation Measure Air-2, which identified the Midtown Specific Plan contains policies directed at reducing vehicle miles traveled, such as a mixture of land uses, supporting major transit facilities, locating higher density development around hubs and commercial centers, providing for the continuation of pedestrian-oriented retail development, and providing pedestrian connections between the transit stations and important destinations, but concluded that air quality impacts would be significant and unavoidable. The project would implement the Mitigation Measure Air-2 and would not increase the previously-identified impacts. Thus conclusions about compliance with the Clean Air Plan in the Midtown Specific Plan FEIR remain applicable to the project.

### **Regional Air Pollutant Emissions**

The Midtown Specific Plan FEIR identified that development of projects under the Midtown Specific Plan could result in additional dispersed and intermittent sources of criteria air pollutants. The Midtown Specific Plan FEIR determined that buildout of the Midtown Specific Plan could exceed the BAAQMD's annual significance threshold for each of the regional criteria air pollutants.

The 91 Montague Project would develop the site with new residential uses, similar to what the Midtown Specific Plan 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 Midtown Specific Plan FEIR. The Midtown Specific Plan FEIR identified Mitigation Measure Air-2, which includes policies contained in the Midtown Specific Plan to reduce vehicle trip generation and thus vehicle emissions from the project. Although the policies would reduce air quality impacts, regional emissions would remain significant and unavoidable as identified in the Midtown Specific Plan 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 Midtown Specific Plan 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 Midtown Specific Plan FEIR. Implementation of Mitigation Measure Air-1, as identified in the Midtown Specific Plan FEIR, would reduce construction-related air quality impacts; therefore, the proposed project would also not result in any new or more significant construction-related air quality impacts than were evaluated in the Midtown Specific Plan FEIR. This impact would remain less than significant.

## Local Community Risk and Hazard Impacts to Sensitive Receptors

The Midtown Specific Plan FEIR did not address toxic air emissions generated by buildout of the Midtown Specific Plan. Toxic air contaminants are generated by 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.

According to the BAAQMD, a project would result in a significant impact if it would: individually expose sensitive receptors to TACs resulting in an increased cancer risk greater than 10.0 in one million, increased non-cancer risk of greater than 1.0 on the hazard index (chronic or acute), or an annual average ambient  $PM_{2.5}$  increase greater than  $0.3 \mu\text{g}/\text{m}^3$ .<sup>4</sup> A significant cumulative impact would occur if the project in combination with other projects located within a 1,000-foot radius of the project site would expose sensitive receptors to TACs resulting in an increased cancer risk greater than 100.0 in one million, an increased non-cancer risk of greater than 10.0 on the hazard index (chronic), or an ambient  $PM_{2.5}$  increase greater than  $0.8 \mu\text{g}/\text{m}^3$  on an annual average basis.<sup>5</sup> Impacts from substantial pollutant concentrations are discussed below.

Construction activities associated with the proposed project may expose nearby sensitive receptors to airborne particulates and fugitive dust, as well as a small quantity of pollutants associated with the use of construction equipment (e.g., diesel-fueled vehicles and equipment) on a short-term basis.

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<sup>4</sup> Bay Area Air Quality Management District, 2011. *CEQA Air Quality Guidelines*. May.

<sup>5</sup> Ibid.

However, as discussed in the Midtown Specific Plan FEIR, project construction would generate PM<sub>10</sub> and PM<sub>2.5</sub> emissions that are well below the BAAQMD's significance criteria. Additionally, implementation of the BAAQMD PM<sub>10</sub> construction control measures required in Mitigation Measure Air-1 would reduce construction-related emissions to a less-than-significant level, thus minimizing possible exposure of these sensitive receptors to substantial pollutant concentrations during construction.

The proposed project would locate future residents adjacent to UPRR tracks. For projects that have a carcinogenic human health risk exceeding the 10.0 in one 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. The proposed project would be required to incorporate filters with a MERV rating of 11 or higher; therefore, implementation of the project would not result in any new air quality impacts related to the exposure of sensitive receptors to risk and hazards.

### **Objectionable Odors**

The Midtown Specific Plan FEIR evaluated potential odor impacts for the Midtown Specific Plan and determined the buildout would not include land uses that are known odor generators. In addition, the existing industrial land uses within the planning area have not been known to generate odor complaints. The Midtown Specific Plan FEIR determined that implementation of the Midtown Specific Plan would reduce the potential for odor complaints as a result of a general shift from industrial land uses. Therefore, proposed 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. 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 Midtown Specific Plan 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 Midtown Specific Plan FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

### **APPLICABLE POLICIES**

The proposed project would comply with the following 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.*

### **Midtown Specific Plan Policies**

- *Policy 3.13: Adopt development standards and design guidelines for the Mixed-Use District that will create a lively pedestrian environment.*
- *Policy 4.1: Work with the VTA to ensure that the transit stations are attractive facilities which accommodate pedestrians and bicyclists.*
- *Policy 4.2: Provide pedestrian connections between the transit stations and commercial, employment and residential destinations that are direct, attractive and interconnected with the larger city sidewalk and pedestrian path system.*
- *Policy 4.3: Support the establishment of BART service on the Union Pacific Railroad line.*
- *Policy 4.4: Ensure that parking needed for the LRT stations do not displace or otherwise diminish the potential for transit oriented development.*
- *Policy 4.5: Maintain an interconnected pattern of streets within the Midtown Area. More specifically, streets developed to serve new developments should be pedestrian in scale and interconnected with the existing street system (see Figure 4.3[of the Midtown Specific Plan]).*
- *Policy 4.13: Establish an interconnected system of sidewalks and pedestrian paths that provides safe and convenient pedestrian access between the transit stations and other destinations within the Midtown Area.*
- *Policy 4.14: Require a public access easement through new developments, when necessary, to ensure that public parks and the City's trail network are accessible to the general public.*
- *Policy 4.15: Implement improvements, such as bulb-outs, raised crosswalks, and other appropriate mechanisms to calm traffic and make Main Street safer for pedestrians.*
- *Policy 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.*
- *Policy 4.21: Require new development within the Midtown Area to encourage the use of alternative modes of transportation through programs such as carpool parking, the VTA VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, alternative work schedules, telecommuting, etc.*

## CONCLUSION

The Midtown Specific Plan FEIR adequately evaluated the air quality impacts of the 91 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
<b>IV. BIOLOGICAL RESOURCES.</b> Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## DISCUSSION

The majority of the Midtown Specific Plan area is already developed and a total of approximately 87 acres of vacant and undeveloped lands exists within the planning area. The Midtown Specific Plan FEIR found that implementation of the Midtown Specific Plan would largely have minimal impacts on biological resources. However, the Midtown Specific Plan FEIR concluded that proposed development could affect wildlife, including burrowing owl and nesting raptors (Impacts Bio-1 and Bio-2). The Midtown Specific Plan FEIR also found that development activities near jurisdictional hydrologic features, such as Berryessa Creek, Penitencia Creek and Lower Wrigley Ford, could result in potentially significant (Impact Bio-3). The Midtown Specific Plan FEIR concluded that implementation of the mitigation measures contained in the FEIR would ensure that potential impacts to biological resources are less than significant.

The only records of special-status species occurring within the area are for burrowing owls and nesting raptors. Burrowing owl habitat is known to occur within undeveloped sites in the Midtown Specific Plan area, which includes portions of the proposed project site. The Midtown Specific Plan FEIR noted that development of vacant sites could potentially result in take of burrowing owls and destruction of burrowing owl nests. However, the project site would be required to implement Mitigation Measure Bio-1 related to burrowing owl habitat and would ensure impacts are reduced to less-than-significant levels. In addition, the Midtown Specific Plan FEIR identified potential impacts to nesting raptors including red-shouldered hawk. Impacts to nesting raptors occur when large trees are removed and because there are no trees on the project site, the proposed project would not provide suitable habitat for red-shouldered hawks and would therefore not result in any impacts to red-shouldered hawks. Therefore, there would be no new impacts related to special-status species as a result of the proposed project.

The City implements a tree and planting ordinance to protect significant trees,<sup>6</sup> 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 at 4.5 feet above the ground. There are currently no trees on the project site and a tree removal permit would not be required for the project. The project applicant proposes to plant 26 trees throughout the project site as part of the landscaping of the project.

Penitencia Creek, which is located east of the project site, is protected under Section 404 of the Clean Water Act. The Midtown Specific Plan FEIR found that while development could have an impact on wetlands and other waterways including Penitencia Creek (Impact Bio-3), potential impacts were mitigated as part of the Midtown Specific Plan. The General Plan also requires the project applicant to coordinate with appropriate agencies such as the U.S. Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), and Regional Water Quality Control Board (RWQCB) if necessary. The General Plan policies outlined below ensure that impacts would be less than significant. Therefore, the 91 Montague Expressway Project would have no direct impact on Penitencia Creek.

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

**APPLICABLE MITIGATION**

No new mitigation measures are required.

**APPLICABLE POLICIES**

The proposed project would comply with the following policies.

**General Plan Policies**

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

**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 Midtown Specific Plan FEIR adequately evaluated the potential biological impacts of the 91 Montague Project and no new impacts would result.

	<b>Potentially Significant Impact</b>	<b>Less Than Significant Impact with Mitigation</b>	<b>Less Than Significant Impact</b>	<b>No New Impact</b>
<b>V. CULTURAL RESOURCES.</b> Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DISCUSSION**

The Midtown Specific Plan FEIR concluded that the potential impact of development within the Midtown Specific Plan area on cultural resources, including historic, archaeological and paleontological and human remains would be less than significant. However, the Midtown Specific Plan FEIR concluded that disturbance to cultural resources could occur during grading and development of individual project sites within the Midtown Specific Plan area, and that there is a reasonable possibility that archaeological deposits, cultural sites, and human remains could be uncovered and identified during grading (Impacts Cult-2, Cult-3, and Cult-4). The Midtown Specific Plan FEIR provides various mitigation measures that would ensure potential impacts on known or undisclosed cultural resources would be reduced to less than significant levels.

There are no known historic or cultural resources within the project site.<sup>7</sup> The existing structure that would be demolished as part of the project is approximately 30 years old and was previously used for storage at a cement-mixing plant and is 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. Construction of the 91 Montague Expressway Project would not result in any new impacts to cultural resources.

**APPLICABLE MITIGATION**

No new mitigation measures are required.

**APPLICABLE POLICIES**

The proposed project would comply with the following 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

<sup>7</sup> Milpitas, City of, 2016. Cultural Resources Register. Available online at: [www.ci.milpitas.ca.gov/pdfs/plan\\_cultural\\_resources.pdf](http://www.ci.milpitas.ca.gov/pdfs/plan_cultural_resources.pdf) (accessed on June 13).

of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and locational information to the California Historical Resources Information Center Office (Northwest Information Center). The consulting archaeologist shall also evaluate such resources for significance per California Register of Historical Resources eligibility criteria (Public Resources Code Section 5024.1; Title 14 CCR Section 4852). If the archaeologist determines that the find does not meet the CEQA standards of significance, construction shall proceed. On the other hand, if the archaeologist determines that further information is needed to evaluate significance, the Planning Department staff shall be notified and a data recovery plan shall be prepared.

All future development in the Midtown Specific Plan 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

## CONCLUSION

The Midtown Specific Plan FEIR adequately evaluated the potential cultural resource impacts of the 91 Montague Expressway Project and no new impacts would result.

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

## DISCUSSION

The Midtown Specific Plan FEIR concluded that the geologic and soil impacts in the Midtown 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 Midtown Specific Plan area is not located within an Earthquake Fault Hazard Zone, the likelihood of surface fault rupture is minimal. In addition, the Midtown Specific Plan FEIR found that slope instability hazards are also minimal.

The Midtown Specific Plan FEIR determined that impacts related to strong seismic ground shaking would be less than significant when projects are built in accordance with the California Building Code. Specifically, the Midtown Specific Plan 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 91 Montague Expressway Project would be designed and constructed in accordance with these requirements.

The Midtown Specific Plan FEIR determined that liquefaction of soils during earthquakes poses a hazard to structures in the planning area and is regarded as high, depending on the specific area of the Midtown Specific Plan area. As part of the proposed project, a Soil Engineering Study and Liquefaction Analysis<sup>8</sup> was prepared which determined that development would not be affected by liquefaction to the extent that would require mitigation. The study also determined that surface manifestation and lateral spreading at the site are considered to be unlikely.

Additionally, in accordance with the City Code, building permit applications for subdivisions and projects with extensive grading (for example, projects that move more than 1,000 cubic yards of cut and fill and have cuts and/or fill more than 10 feet deep) 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 would help reduce potential liquefaction hazards to less-than-significant levels.

The 91 Montague Expressway Project is consistent with the type of development analyzed in the Midtown Specific Plan FEIR and is required to adhere to General Plan and Midtown Specific Plan policies relating to building standards and emergency service needs. A Stormwater Control Plan<sup>9</sup> was prepared for the project and provides Best Management Practices (BMPs) to be implemented at the project site in accordance with NPDES permits and Santa Clara County Urban Runoff Pollution Prevention guidance.

Implementation of measures identified in the soils 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 recommendations that the project must implement. Since the 91 Montague Expressway Project would comply with Midtown Specific Plan policies, including implementing the recommendations of the preliminary geotechnical report, there are no new impacts related to geology and soils.

## **APPLICABLE MITIGATION**

No new mitigation measures are required.

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<sup>8</sup> Earth Systems Pacific, 2012. *Update Soil Engineering Study and Liquefaction Analysis*. June 18.

<sup>9</sup> Underwood & Rosenblum, Inc. 2014. *Stormwater Control Plan for 91 Montague Expressway Milpitas, CA*. December.

**APPLICABLE POLICIES**

The proposed project would comply with the following 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.*

**CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the potential geology and soil impacts of the 91 Montague Expressway Project and no new impacts would result.

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

**DISCUSSION**

The Midtown Specific Plan FEIR did not address greenhouse gas emissions associated with buildout of the Midtown Specific Plan. The primary sources of greenhouse gas (GHG) emissions related to the proposed project are anticipated 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 construction.

GHGs are present in the atmosphere naturally, are released by natural sources, or are formed from secondary reactions taking place in the atmosphere. The gases that are widely seen as the principal contributors to human-induced global climate change are:

- Carbon dioxide (CO<sub>2</sub>);
- Methane (CH<sub>4</sub>);

- Nitrous oxide (N<sub>2</sub>O);
- Hydrofluorocarbons (HFCs);
- Perfluorocarbons (PFCs); and
- Sulfur Hexafluoride (SF<sub>6</sub>).

Over the last 200 years, humans have caused substantial quantities of GHGs to be released into the atmosphere. These extra emissions are increasing GHG concentrations in the atmosphere and enhancing the natural greenhouse effect, which is believed to be causing global warming. While manmade GHGs include naturally-occurring GHGs such as CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O, some gases, like HFCs, PFCs, and SF<sub>6</sub> are completely new to the atmosphere.

Certain gases, such as water vapor, are short-lived in the atmosphere. Others remain in the atmosphere for significant periods of time, contributing to climate change in the long term. Water vapor is excluded from the list of GHGs above because it is short-lived in the atmosphere and its atmospheric concentrations are largely determined by natural processes, such as oceanic evaporation.

These gases vary considerably in terms of Global Warming Potential (GWP), which is a concept developed to compare the ability of each GHG to trap heat in the atmosphere relative to another gas. The GWP is based on several factors, including the relative effectiveness of a gas to absorb infrared radiation and the length of time that the gas remains in the atmosphere (“atmospheric lifetime”). The GWP of each gas is measured relative to CO<sub>2</sub>, the most abundant GHG; the definition of GWP for a particular GHG is the ratio of heat trapped by one unit mass of the GHG to the ratio of heat trapped by one unit mass of CO<sub>2</sub> over a specified time period. GHG emissions are typically measured in terms of pounds or tons of “CO<sub>2</sub> equivalents” (CO<sub>2</sub>e).

The Midtown Specific Plan FEIR also did not include an evaluation of the project’s compliance with the City’s 2013 Climate Action Plan (CAP) which was not in place at the time the EIR was certified. The CAP was designed to streamline environmental review of future development projects in the City of Milpitas consistent with the CEQA Guidelines Section 15183.5(b) and the BAAQMD CEQA Air Quality Guidelines. The CAP identifies a strategy, reduction measures, and implementation strategies the City will use to achieve the State-recommended GHG emissions reduction target of 15 percent below 2005 emissions levels by 2020.

### **Construction Greenhouse Gas Emissions**

The combustion of fossil-based fuels creates GHGs such as CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O. Furthermore, CH<sub>4</sub> is emitted during the fueling of heavy equipment. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change. Neither the City of Milpitas nor the BAAQMD have an adopted Threshold of Significance for construction-related GHG emissions, however the BAAQMD does recommend the implementation of construction best management practices to reduce emissions as identified in Mitigation Measure Air-1 of the Midtown Specific Plan FEIR. Construction activities would produce combustion emissions from various sources. During site preparation and construction of the project, GHGs would be emitted through the operation of construction equipment and from worker and builder supply vendor vehicles, each of which typically uses fossil-based fuels to operate. Project excavation, grading, and construction would be a temporary condition limited to the project construction period and would not result in a permanent increase in

emissions that would interfere with the implementation of the CAP's GHG reduction strategies or the State's AB 32. Therefore, the impact from construction emissions associated with the proposed project would be less than significant.

### **Operational Greenhouse Gas Emissions**

As discussed above, the City of Milpitas has an adopted CAP. The CAP meets the BAAQMD requirements for a Qualified Greenhouse Gas Reduction Strategy and, therefore, the significance of the project's impacts is based on the project's compliance with the measures identified in the CAP. Any project relying on the CAP for CEQA purposes must demonstrate consistency with the CAP. The CAP includes various strategies for reducing greenhouse gas emissions and adapting to the effects of climate change.

The project's greenhouse gas emissions would not be considered a significant impact if the project would be consistent with the strategies included in the CAP. The proposed project includes transit-oriented development and would incorporate green building measures in compliance with CALGreen's 2013 standard building measures for residential buildings and Title 24 requirements, which are consistent with the Climate Action Plan's transportation and land use goals. Therefore, the proposed project would be in conformance with the City's Climate Action Plan and the impact from GHG emissions associated with operation of the proposed project would be less than significant.

### **Climate Action Plan Consistency**

The 91 Montague Expressway Project adheres to the building guidelines of the Midtown Specific Plan, is consistent with the Milpitas CAP, and promotes reductions in greenhouse gas emissions through high-density development in close proximity to transit. To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen 2013 standard building measures for residential buildings and Title 24 requirements. In addition, landscaping and trees would be planted according to City standards, which would help offset greenhouse gas emissions. Therefore, the proposed project would not conflict with any applicable plan, policy or regulation adopted for the purpose of reduction emissions of greenhouse gases.

### **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 Midtown Specific Plan FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

### **APPLICABLE POLICIES**

The proposed project would comply with the following policies.

#### **Midtown Specific Plan Policies**

- *Policy 3.13: Adopt development standards and design guidelines for the Mixed-Use District that will create a lively pedestrian environment.*

- *Policy 4.1: Work with the VTA to ensure that the transit stations are attractive facilities which accommodate pedestrians and bicyclists.*
- *Policy 4.2: Provide pedestrian connections between the transit stations and commercial, employment and residential destinations that are direct, attractive and interconnected with the larger city sidewalk and pedestrian path system.*
- *Policy 4.5: Maintain an interconnected pattern of streets within the Midtown Area. More specifically, streets developed to serve new developments should be pedestrian in scale and interconnected with the existing street system (see Figure 4.3[of the Midtown Specific Plan]).*
- *Policy 4.13: Establish an interconnected system of sidewalks and pedestrian paths that provides safe and convenient pedestrian access between the transit stations and other destinations within the Midtown Area.*
- *Policy 4.15: Implement improvements, such as bulb-outs, raised crosswalks, and other appropriate mechanisms to calm traffic and make Main Street safer for pedestrians.*
- *Policy 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.*
- *Policy 4.21: Require new development within the Midtown Area to encourage the use of alternative modes of transportation through programs such as carpool parking, the VTA VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, alternative work schedules, telecommuting, etc.*
- *Policy 6.1: Provide adequate water facilities to serve the needs of new development and apply water conservation techniques to help reduce overall demand.*
- *Policy 6.2: Reduce water consumption through a program of water conservation measures, such as use of recycled water, water saving fixtures, and drought-tolerant landscaping.*
- *Policy 6.8: Encourage creativity in design of new development in order to reduce stormwater runoff, increase percolation, and improve water quality.*
- *Policy 6.11: Incorporate energy saving devices into new development in order to promote energy conservation.*
- *Policy 6.17: Implement existing recycling programs in the Midtown Area.*
- *Policy 6.18: Promote recycling of construction and demolition debris.*

## CONCLUSION

Potential impacts of GHG emissions associated with the 91 Montague Project 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
<b>VIII. HAZARDS AND HAZARDOUS MATERIALS.</b>				
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## DISCUSSION

The Midtown Specific Plan FEIR concluded that due to past land uses and previously reported hazardous material releases and spills within the Midtown Specific Plan area, there are potential impacts associated with existing soils and groundwater contamination in areas of the Midtown Specific Plan (Impact HazMat-1). These potential impacts include the risk of upset during demolition and renovation activities and could expose construction workers and the public to hazardous materials from existing soils and groundwater contamination. All projects implemented as part of the Midtown Specific Plan are subject to the existing hazardous materials regulations for the use, transport and disposal of hazardous materials. The Midtown Specific Plan FEIR found that any impact from potential exposure during construction can be reduced to a less-than-significant level with implementation of applicable Federal, State and local requirements.

A Phase I Environmental Site Assessment<sup>10</sup> (ESA) was prepared for the project site and found that the site was previously used for cement-mixing purposes beginning in 1961 but the facility was subsequently removed in 1999. The existing building on the site was constructed in 1982 and was used for storage purposes. The Phase I ESA also identified the existence of a 5,000-gallon diesel tank, 1,250-gallon unleaded gasoline tank, and a propane tank previously used on the site. In addition, waste oil was stored in a 55-gallon drum for offsite disposal. However, all tanks were properly removed.

The Phase I also noted that records obtained from the Santa Clara Valley Water District (SCVWD) indicated that a leaking Underground Storage Tank (UST) was detected on the site in 1992. However, the two USTs were removed and a contamination assessment was performed. As part of the contamination assessment, soil borings were drilled to measure the extent of contamination and groundwater-monitoring wells were installed. The case was closed in 1997 and the monitoring wells were abandoned in July 1998 under the supervision of the SCVWD. The Phase I also noted that additional soil sampling activities at the site indicated low levels of contaminants which do not pose a risk to the site. In addition, the Phase I indicated that there is a very low risk of the site being affected from secondary sources of contamination

The nearest school to the project site is Zanker Elementary School at 1585 Fallen Leaf Drive, approximately 0.35 miles west of the project site. Since there are no schools within 0.25 miles of the project site, no impacts related to handling hazardous materials near a school would occur. The project site is located approximately 3.0 miles northeast of the nearest public use airport, Norman Y. Mineta San Jose International Airport (SJIA). As the project site is not located within the SJIA Airport Influence Area, no safety hazards from the airport would be anticipated. No private airstrips are located in the project vicinity.<sup>11</sup> The proposed project would not be expected to impair implementation or interfere with an adopted emergency plan. Midtown Specific Plan Policy 6.19 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.

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<sup>10</sup> Medina Consulting Corporation, 2001. *Phase I Environmental Site Assessment Al-Hilaal Islamic Charitable Foundation's Masjid Dar-us-Salaam 91 Montague Expressway Milpitas, CA 95035*. June 29.

<sup>11</sup> Santa Clara County Airport Land Use Commission, 2011. *Comprehensive Land Use Plan, Santa Clara County, Norman Y. Mineta San Jose International Airport, Figure 8: Airport Influence Area*. May 25.

The 91 Montague Expressway Project is consistent with the overall vision of the Midtown Specific Plan. Since the proposed project would comply with Midtown Specific Plan policies, there are no new impacts related to hazards or hazardous materials.

**APPLICABLE MITIGATION**

No new mitigation measures are required.

**APPLICABLE POLICIES**

The proposed project would comply with the following policies.

**Midtown Specific Plan Policies**

- *Policy 5.20: Ensure that adequate Fire, Police and Emergency Services are in place to serve new development in Midtown.*

**CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated potential impacts related to hazards and hazardous materials at or affecting the 91 Montague Expressway Project and no new impacts would result.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
<b>IX. HYDROLOGY AND WATER QUALITY.</b> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
<b>IX. HYDROLOGY AND WATER QUALITY.</b> Would the project:				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DISCUSSION**

The Midtown Specific Plan FEIR determined that implementation of the Midtown Specific Plan would have minimal impacts on hydrology and water quality in the area including drainage, flooding, and water quality. Impacts to groundwater are not anticipated to occur within the Midtown Specific Plan area because the City is served by a municipal water system which does not depend on local groundwater and because the area is 90 percent developed. The Midtown Specific Plan area is also not subject to inundation by seiche, tsunami or mudflow. The Midtown Specific Plan FEIR concluded compliance with specific municipal policies, General Plan and Midtown Specific Plan policies would

further reduce potential impacts related to stormwater quality, runoff, and flooding to less-than-significant levels.

The Midtown Specific Plan area, including the proposed project site, is within a Federal Emergency Management Agency (FEMA)-designated floodplain. While flooding hazards would primarily take the form of ponding water and overflows of open drainage channels that result in shallow flooding of 1 to 2 feet deep. New construction could be required to be constructed at an elevation above the base flood under existing requirements National Flood Insurance Program. The Midtown Specific Plan FEIR also identified that flooding impacts would not be considered significant because potential impacts associated with flooding would not cause a risk to life or property. In addition, implementation of the City's Flood Plain Management Ordinance and FEMA guidelines would further ensure potential impacts associated with flooding would be less than significant.

The Midtown Specific Plan FEIR identified that implementation of the Midtown Specific Plan would result in minor local alterations of the existing drainage system and minor increases in stormwater runoff. However, implementation of the Midtown Specific Plan would not require substantial alteration to the storm drainage system. As such, impacts related to drainage were identified as less than significant.

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). The applicant submitted a Stormwater Management Plan as part of the project application materials.<sup>12</sup> The City will confirm that this plan conforms to all applicable local and State requirements. The 91 Montague Expressway Project conforms to the Midtown Specific Plan FEIR, and, therefore, there is no new impact on hydrology and water quality.

### **APPLICABLE MITIGATION**

No new mitigation measures are required.

### **APPLICABLE POLICIES**

The proposed project would comply with the following 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)

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<sup>12</sup> Underwood & Rosenblum, Inc., 2014, op. cit.

- 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.*

**Midtown Specific Plan Policies**

- *Policy 6.7: Provide storm drainage infrastructure to adequately serve new development and meet City standards.*
- *Policy 6.8: Encourage creativity in design of new development in order to reduce stormwater runoff, increase percolation, and improve water quality.*
- *Policy 6.9: Provide necessary improvements to the storm drainage system to serve new development within the Midtown Area.*

**CONCLUSION**

The Midtown Specific FEIR adequately evaluated the hydrology and water quality impacts of the 91 Montague Expressway Project and no new impacts would result.

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

## DISCUSSION

The Midtown Specific Plan FEIR concluded that while implementation of the Midtown 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 Midtown Specific Plan would not result in the division of an established community because the area was primarily developed with industrial uses prior to the development of the Midtown Specific Plan. In addition, there is no habitat conservation or natural community conservation plans within the Midtown Specific Plan area.

The project site is currently designated in the General Plan and Midtown Specific Plan as Multi-Family Residential, Very high Density (VHD). The site is zoned as Mixed-Use, Very High Density (MXD3) and located in the Midtown Specific Plan area. The Midtown Specific Plan identified that new development would create a more cohesive urban pattern within the area and help transform the area into a vibrant mixed-use office district. As previously discussed, the Midtown Specific Plan establishes the types, locations and intensities of land use to be accommodated within the Midtown Specific Plan area. The plan designates seven land use designations that represent the overall mix of land uses envisioned for the Midtown area. These designations are currently found within the Milpitas General Plan.

Under the Midtown Specific Plan, the proposed project site is designated as Multi-Family Residential, Very High Density. Permitted densities for residential uses range from a minimum of 31 units per acre average gross density to 40 units per acre maximum average gross density. In addition, the maximum permitted building height is 4 stories and 60 feet under this designation. The 91 Montague Expressway Project complies with the standards of the Multi-family Very High Density land use designation and would develop the site within the range and intensity standards from what was assumed in the Midtown Specific Plan FEIR.

Since the land use impacts of the 91 Montague Expressway Project are consistent with the impacts identified in the Midtown Specific Plan FEIR, and because the project would comply with the building standards of the Midtown Specific Plan, there is no new impact on land use.

## APPLICABLE MITIGATION

No new mitigation measures are required.

## APPLICABLE POLICIES

The proposed project would comply with the following policies.

### Midtown Specific Plan Policies

- *Policy 3.1: Allow for up to 1,104 new housing units in Milpitas Midtown.*
- *Policy 3.4: Establish a minimum density of 21 units per gross acre in the Mixed-Use District, 31 units per gross acre in the multifamily, very high-density area and a minimum of 41 units per gross acre around the transit stations.*

- *Policy 3.5: Provide housing for all income levels (i.e., very low, low, moderate, and above moderate households as defined by the US Department of Housing and Urban Development) throughout the Midtown Area.*
- *Policy 3.8: Encourage creativity in high-density residential design. Consider housing types, such as live/work lofts, that are not currently developed in the city.*
- *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.*

**CONCLUSION**

The Midtown Specific Plan adequately evaluated the land use impacts of the 91 Montague Expressway Project and no new impacts would result.

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

**DISCUSSION**

The City of Milpitas General Plan does not identify mineral resources within the Midtown Specific Plan area. Therefore, the 91 Montague Expressway Project would have no impact on mineral resources.

**CONCLUSION**

There are no mineral resources located within the Midtown Specific Plan area. As such, the 91 Montague Expressway Project would not result in any impacts to mineral resources.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
<b>XII. NOISE.</b> Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## DISCUSSION

### Construction-Period Impacts

The proposed project would be consistent with the buildout projected for the Midtown Specific Plan, and would implement the policies identified in the Midtown Specific Plan 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.

As described in the Midtown Specific Plan FEIR, construction noise impacts would vary depending the specific construction activities being performed, the time and duration of construction, and distance to sensitive receptors. Compliance with the General Plan and Municipal Code 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.

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

### **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.

The Midtown Specific Plan FEIR did not evaluate potential groundborne vibration impacts; however, the proposed project would develop residential uses and therefore could expose sensitive receptors to unacceptable levels of groundborne vibration, specifically from operation of the UPRR, as the proposed project would locate residential uses adjacent to the rail line.

A Vibration Report was prepared for the proposed project, which evaluated the potential vibration impacts on the proposed project.<sup>13</sup> The report found that the current measured maximum vibration level was 75.9 VdB, which is below the maximum vibration criteria established by the City for residential projects with fewer than 30 events per day, which is 80 VdB. Therefore, the proposed project complies with the established criteria and would have a less-than-significant impact related to groundborne vibration.

### **Operational-Period Impacts**

As discussed in the Midtown Specific Plan FEIR, the City of Milpitas has identified a “normally acceptable” noise compatibility goal of 65  $L_{dn}$ , or less, for multi-family residential land uses. Noise levels of 60 to 70 dBA  $L_{dn}$  are considered “conditionally acceptable” and noise levels of 70 to 75 dBA  $L_{dn}$  are considered “normally unacceptable.” The Midtown Specific Plan FEIR determined that

<sup>13</sup> Mei Wu Acoustics, 2013. *91 Montague Vibration Report – Stage 1*. July 7.

predicted noise levels in the vicinity of the proposed multi-family residential land uses would likely exceed the City's "normally acceptable" land use compatibility noise standard of 65 dBA  $L_{dn}$ . However, according to the Midtown Specific Plan FEIR, implementation of Title 24 standards would reduce interior noise levels to 45 dBA  $L_{dn}$ . Title 24 measures could include construction of walls with resilient channels, staggered studs, or double-stud walls, and dual glazed windows with laminated glass and a 2½- to 4-inch airspace. If the windows must remain closed to obtain the required noise reduction, then mechanical ventilation shall be installed in these units.<sup>14</sup> Therefore, the Midtown Specific Plan FEIR determined that implementation of Title 24 would ensure that the proposed residential uses in the Midtown area would not be exposed to an incompatible noise environment and the impact would be less than significant.

The proposed project would result in an increase in people living close to transit stations which could expose sensitive receptors to higher noise levels from train activity. An Acoustic Report was prepared for the proposed project, which evaluated the potential noise impacts on the proposed project.<sup>15</sup> The report found that traffic noise would be the dominant source of noise given that the railroad is not a commuter rail line, therefore it should not have heavy train traffic (there should be trains probably once or twice a day). The report included a 24-hour noise measurement, which determined noise levels at the project site are approximately 62.9 dBA  $L_{dn}$ . This noise level is below the City's normally acceptable criterion. Therefore, this condition would not result in any impacts that would be more severe than those analyzed in the Midtown Specific Plan FEIR.

### **Stationary Noise Source Impacts**

The proposed long-term use of the project site is transit-oriented residential development. Potential long-term stationary source impacts at the project site would be primarily associated with transportation activities, operations associated with delivery truck activities, and the operation of heating, ventilation, and air condition (HVAC) units. However, the proposed project would not increase stationary source noise impacts above those analyzed in the Midtown Specific Plan FEIR.

### **Aircraft Noise Source Impacts**

The Midtown Specific Plan FEIR did not address aircraft noise levels; however, 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, aircraft noise would have a less-than-significant 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 Midtown Specific Plan FEIR. The project would generate 479 average daily trips which would not increase the surrounding traffic noise by a perceptible level.

<sup>14</sup> Milpitas, City of, 2002. *Final Environmental Impact Report for the Midtown Milpitas Specific Plan*. January.

<sup>15</sup> Mei Wu Acoustics, 2013. *91 Montague Noise Report – Stage 1*. July 1.

## 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 Midtown Specific Plan FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

## APPLICABLE POLICIES

The proposed project would comply with the following policies.

### General Plan Policies

- *Policy 6-G-1: Maintain land use compatibility with noise levels similar to those set by State guidelines.*
- *Policy 6-G-2: Minimize unnecessary, annoying, or injurious noise.*
- *Policy 6-I-1: Use the guidelines in Table 6-1 [of the General Plan] (Noise and Land Use Compatibility) as review criteria for development projects.*
- *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-7: Avoid residential DNL exposure increases of more than 3 dB or more than 65 dB at the property line, whichever is more restrictive.*
- *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.*

**Midtown Specific Plan Policies**

- *Policy 5.3: Promote high-quality private development that contributes to the visual identity and environmental quality of the Midtown Area through the application of the Development Standards and Design Guidelines.*
- *Policy 7.1: Enforce the Development Standards and Design Guidelines (see Section 8.0 of [the Midtown Specific Plan]) to ensure that new development is of a high-quality and consistent with Specific Plan objectives.*
- *Policy 7.2: Proposed plans shall undergo a supplemental architectural review for new office and high-density residential and other appropriate development to ensure high-quality development. The applicant will bear the cost of such a review.*

**CONCLUSION**

The Midtown Specific Plan FEIR adequately covered the noise impacts of the 91 Montague Expressway Project and no new impacts would result.

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

**DISCUSSION**

Implementation of the Midtown Specific Plan would transform a predominantly industrial area by adding high density and mixed-use developments to the area and creating a community gathering place, reinforcing the use of alternative modes of transportation and developing stronger linkages between Midtown and Milpitas as a whole.

The Midtown Specific Plan FEIR identified that implementation of the Midtown Specific Plan would allow for new housing areas, including the proposed project, but would not directly displace existing housing or displace substantial numbers of people. The Midtown Specific Plan FEIR noted that the

designation of the Johnsville Mobile Home Park property in the southern portion of the Midtown Specific Plan area to a higher density residential designation (41 to 60 dwelling units per acre) could accelerate the redevelopment of this property. However, the proposed project is not located in the vicinity of the Johnsville Mobile Home Park and would not be impacted by its redevelopment.

The Midtown Specific Plan evaluated potential environmental impacts associated with approximately 2,379 units of residential development and 6,400 new residents within the Midtown Specific Plan area. As the population and housing units proposed by the project would fall within the total development anticipated by the Midtown Specific Plan FEIR, the project would result in no new impacts associated with population and housing.

**APPLICABLE MITIGATIONS**

No new mitigation measures are required.

**CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the population and housing impacts of the 91 Montague Expressway Project and no new impacts would result.

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

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

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

## DISCUSSION

The Midtown Specific Plan area contains three school districts: the Milpitas Unified School District (MUSD), Berryessa Union School District (BUSD), and East Side Union School District (EUSD). The Midtown Specific Plan FEIR evaluated the impact that the Midtown Specific Plan's anticipated increase in population and associated increase in student population would have on the three school districts. The Midtown Specific Plan FEIR determined that the school districts would have adequate capacity to serve build-out of the Midtown Specific Plan, including the proposed project, if the developer fee structure remains in place, discussed below, and no significant impacts would result.

The project site falls within the MUSD attendance boundaries. Due to the project's location, school-aged children would attend Zanker Elementary School, Rancho Milpitas Middle School, and Milpitas High School. Build-out of the Midtown Specific Plan would generate an additional 441 students within the specific plan area. The Midtown Specific Plan would result in approximately 237 elementary students (K-6), 68 middle school students (7-8), and 136 high school students (9-12).<sup>16</sup>

Policies in the General Plan and Midtown Specific Plan would reduce the impact to school services 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 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 Midtown Specific Plan FEIR and the proposed project's impacts on schools have been adequately analyzed in the Midtown Specific Plan FEIR; as such, the project would not result in a new impact to school facilities.

The Midtown Specific Plan FEIR concluded that the Milpitas Fire Department would need to provide additional fire and emergency services in the form of additional personnel required to respond to emergency situations as a result of implementation of the Midtown Specific Plan. The Midtown Specific Plan FEIR concluded that the Milpitas Fire Department would continue to add firefighters and EMTs on an as-needed basis to provide adequate public safety in the City, including the Midtown Specific Plan area and project site. However, the addition of firefighters and EMTs and their related equipment would not necessitate the construction of additional facilities or the expansion of existing facilities. As such, the proposed project would not result in new impacts associated with fire services.

As noted in the Midtown Specific Plan FEIR, implementation of the Midtown Specific Plan would increase the long-term demand for police assistance and new staff and equipment would be required; however, a new police station would not be warranted. An addition of 20 officers would be needed to service the Midtown Specific Plan's increase in population. The Midtown Specific Plan FEIR concluded that the impacts to police services would be less than significant. The 91 Montague Expressway Project adheres to policies in the Specific Plan and General Plan and because the population and housing units proposed by the project would fall within the total development anticipated by the Midtown Specific Plan FEIR, the project would not result in new impacts associated with fire services.

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<sup>16</sup> Milpitas, City of, 2001. *Draft Environmental Impact Report for the Midtown Milpitas Specific Plan*. October.

The proposed project includes 23,051 square feet of usable open space and landscaped areas. The Midtown Specific Plan 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 Midtown Specific Plan also provides policies related to parks which are incorporated into the Parks and Recreation section (Section XV, Recreation) of this checklist. For a more comprehensive discussion on impacts to parks, please refer to Section XV, Recreation.

The Midtown Specific Plan FEIR adequately evaluates public service impacts and the proposed project's impacts are adequately included in and analyzed by the Midtown Specific Plan FEIR. Therefore, the 91 Montague Expressway Project has no new impact on public services.

### **APPLICABLE MITIGATION**

No new mitigation measures are required.

### **APPLICABLE POLICIES**

The proposed project would comply with the following 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.*
- *Policy 6.19: Ensure that adequate Fire, Police and Emergency Services are in place to serve new development in Midtown.*

### **CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the public service impacts of the 91 Montague Expressway Project and no new impacts would result.

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

**DISCUSSION**

The Midtown Specific Plan includes three kinds of open spaces within the Midtown Specific Plan area including public parks, common open spaces, and private open spaces. Public parks are community open spaces that are publicly-accessible and meant for use (e.g. Town Square, Transit Green, pedestrian and bicycle trails). Common open spaces are those that are incorporated into a housing development. These spaces could include private park areas with uses such as swimming pools, tot-lots, club houses, exercise rooms, large lawn areas for playing and tennis courts. Common open space also includes landscaped areas that create the environment within the development. Private open space includes patios and balconies.

The City of Milpitas has a citywide standard of 5 acres of parkland per 1,000 residents. As specified in Policy 3.24 of the Midtown Specific Plan, new residential development would be required to provide public parks at a ratio of 3.5 acres per 1,000 residents, which is lower than the existing parkland standard. As noted in the Midtown Specific Plan FEIR, the reduction for required parkland is desirable in the area to ensure density and intensity are higher in the Midtown Specific Plan area than other areas of the City to encourage pedestrian activity and transit opportunities.

The proposed project would include a total of 23,051 square feet of usable open space and landscaped areas. Common open space would include two courtyards for use by project residents. In addition, the project would contain 7,096 square feet of private open space including 2,842 square feet in the form of private patios or balconies for each unit. Landscaping would be provided throughout the site, including within the courtyards and along the western portion of the site to provide a buffer with the adjacent residential development

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

**APPLICABLE MITIGATION**

No new mitigation measures are required.

**APPLICABLE POLICIES**

The proposed project would comply with the following policies.

**Midtown Specific Plan Policies**

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

**CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the recreation impacts of the 91 Montague Expressway Project and no new impacts would result.

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

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted polices, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## DISCUSSION

This section compares traffic impacts from the proposed project with impacts identified in the Midtown Specific Plan FEIR.

### Trip Generation

Trip generation rates from the Institute of Transportation Engineer’s (ITE) Trip Generation Manual, 9th Edition,<sup>17</sup> were used to estimate the daily and peak-hour trip generation from the proposed 91 Montague Expressway Project. Table 1 below summarizes the trip generation for the proposed project.

**Table 1: Trip Generation**

Land Use	Size	ITE Code <sup>a</sup>	Daily Trips	AM Peak Hour			PM Peak Hour		
				Total	In	Out	Total	In	Out
Apartments	72	220	479	40	12	28	48	29	19

<sup>a</sup> Rates per ITE Trip Generation Manual, 9th Edition

Source: LSA Associates Inc., June 2016.

As shown in Table 1 above, the 91 Montague Expressway Project is expected to generate approximately 479 daily vehicle trips, with 40 trips occurring during the AM peak hour and approximately 48 trips occurring during the PM peak hour.

### Intersection Level of Service Impacts

Based on the estimated project trip generation, the proposed project would not cause any significant traffic impacts to the surrounding area. The 91 Montague Expressway Project conforms to the development parameters anticipated in the Midtown Specific Plan and evaluated in the Midtown Specific Plan FEIR, and there are no new impacts related to intersection level of service associated with the proposed project.

<sup>17</sup> Institute of Transportation Engineers, 2012. *Trip Generation Manual, 9<sup>th</sup> ed.*

## Site Circulation and Access

As discussed in the Project Description, access to the project site would be via a new 30-foot-wide driveway from Montague Expressway. The new driveway would provide direct access to a subterranean garage where a total of 150 parking spaces would be provided. Ingress and egress to the site would accommodate fire and emergency access vehicles as well as solid waste collectors. A total of eight guest parking spaces would be provided at street-level. The parking garage would also provide a total of 24 vertical lockers for bicycles and bicycle racks for nine bicycles would be provided at the street level.

Ingress and egress to the site for fire and emergency access vehicles as well as solid waste collectors would be accommodated via an internal road on the eastern end of the project site that would connect to the driveway on Montague Avenue. Specifically, vehicles would enter the site from the new driveway, turn right and then turn left onto the new internal driveway. In addition, fire and emergency access vehicles would have access to the site from Ede Lane located north of the project site. A rolling gate with lock box for the fire department would restrict access to fire and emergency access vehicles only.

## Pedestrian, Bicycle, and Transit Facilities

As indicated in the Midtown Specific Plan FEIR, the current pedestrian network within the Midtown area includes sidewalks, crosswalks, and pedestrian signals. Crosswalks and pedestrian signals are provided at all of the study intersections included in the Midtown Specific Plan FEIR. However, gaps in the sidewalk system are provided at all of the undeveloped parcels within the Midtown area. Many of these missing segments are to be provided upon development allowed under the Midtown Specific Plan and/or in association with roadway improvements and the light rail extension.

Bicycle facilities within the Midtown area include bike paths (Class I), lanes (Class II), and routes (Class III). As identified in the Midtown Specific Plan FEIR, in the vicinity of the Midtown area, bike lanes are designated on Tasman Drive-Great Mall Parkway between I-880 and Montague Expressway, S. Main Street between Weller Lane and Montague Expressway, McCandless Drive between Great Mall Parkway and Montague Expressway, Milpitas Boulevard between Yosemite Drive and Calaveras Boulevard, and Yosemite Drive between Milpitas Boulevard and I-680. Bike routes are located on Main Street continuing to Marilyn Drive north of Weller Lane. Based on measures included as part of the Midtown Specific Plan, bicycle circulation would be improved.

Development due to the Midtown Specific Plan 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 Midtown Specific Plan 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 Midtown Specific Plan FEIR.

## 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 Midtown Specific Plan FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

## APPLICABLE POLICIES

The proposed project would comply with the following policies.

### General Plan Policies

- *Policy 3.a-G-1: Continue to utilize the City's adopted Level of Service standards in evaluating development proposals and capital improvements.*
- *Policy 3.1-G-2: Maintain acceptable service standards for all major streets and intersections.*
- *Policy 3.a-G-3: Create accessible transportation networks system to meet the needs of all segments of the population, including youth, seniors, persons with disabilities and low-income households.*
- *Policy 3.b-G-1: Develop a street network integrated with the pattern of living, working and shopping areas, and which provides for safe, inviting, convenient, and efficient intermodal movement within the City and to other parts of the region.*
- *Policy 3.b-I-2: Require all projects that generate more than 100 peak-hour (A.M. or P.M.) vehicle trips to submit a transportation impact analysis that follows guidelines established by CMP.*
- *Policy 3.c-G-1: Implement measures that increase transit use and other non-motorized travel modes that lead to improved utilization of the existing transportation system, such as improvements to access public transit stops and stations by walking and biking, and provide transit stops near employment centers and higher density residential developments.*
- *Policy 3.c-I-4: Encourage feeder services to carry commuters to transit stations, including shuttle connections from businesses, residences, and attractions to bus and rail services.*
- *Policy 3.d-G-2: Promote walking and bicycling for transportation and recreation purposes by providing a comprehensive system of sidewalks, bicycle lanes and routes and off-street trails that connects all parts of the City.*
- *Policy 3.d-G-3: Provide adequate bicycle parking and end-of trip support facilities for bicyclists at centers of civic, retail, recreation, education, and work activity.*
- *Policy 3.d-G-4: Promote intermodal commuting options by developing connected system of streets, roads, bridges, and highways that provides continuous, efficient, safe and convenient travel for all users regardless of age or ability.*
- *Policy 3.d-G-5: Encourage a mode shift to non-motorized transportation by expanding and enhancing current pedestrian and bicycle facilities to accommodate casual and experienced cyclists and pedestrians.*

- *Policy 3.d-I-4: Encourage walking, biking and transit use by improving bicycle and pedestrian connections to transit centers, specifically the Great Mall transit centers and light rail stations and the proposed commuter/passenger rail stations.*
- *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 civic, recreation, education, work, and retail centers.*
- *Policy 3.d-I-10: Require developer contributions toward pedestrian and bicycle capital improvement projects, bicycle parking, and end-of-trip support facilities to promote alternate modes of transportation.*
- *Policy 3.d-I-16: Include evaluation of bicycle facility needs in all planning applications for new developments and major remodeling or improvement projects.*
- *Policy 3.d-I-17: Require new developments to provide end-of-trip facilities such as secure bicycle parking, and on-site showers and clothing storage lockers, etc. where feasible.*

### **Midtown Specific Plan Policies**

- *Policy 4.2: Provide pedestrian connections between the transit stations and commercial, employment and residential destinations that are direct, attractive and interconnected with the larger city sidewalk and pedestrian path system.*
- *Policy 4.3: Support the establishment of BART service on the Union Pacific Railroad line.*
- *Policy 4.5: Maintain an interconnected pattern of streets within the Midtown Area. More specifically, streets developed to serve new developments should be pedestrian in scale and interconnected with the existing street system (see Figure 4.3[of the Midtown Specific Plan]).*
- *Policy 4.8: Increase street capacity where feasible to accommodate vehicular demand, while maintaining reasonable pedestrian crossing distances at intersections and minimizing potential vehicle conflicts for bicyclists.*
- *Policy 4.8: Increase street capacity where feasible to accommodate vehicular demand, while maintaining reasonable pedestrian crossing distances at intersections and minimizing potential vehicle conflicts for bicyclists.*
- *Policy 4.13: Establish an interconnected system of sidewalks and pedestrian paths that provides safe and convenient pedestrian access between the transit stations and other destinations within the Midtown Area.*
- *Policy 4.14: Require a public access easement through new developments, when necessary, to ensure that public parks and the City’s trail network are accessible to the general public.*
- *Policy 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.*
- *Policy 4.17: Ensure that new development complies with City of Milpitas Zoning Ordinance requirements for off-street parking. Consider reductions on a case-by-case basis.*
- *Policy 4.18: Consider credit for on-street public parking directly adjacent to a retail development to meet overall development parking requirements.*

- *Policy 4.20: Work with the VTA to allow the shared use of park and ride and transit station parking for off-peak users. In the future, design parking facilities to be compatible with adjacent areas and to reinforce the pedestrian environment.*
- *Policy 4.21: Require new development within the Midtown Area to encourage the use of alternative modes of transportation through programs such as carpool parking, the VTA VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, alternative work schedules, telecommuting, etc.*

## CONCLUSION

The Midtown Specific Plan FEIR adequately evaluated the transportation impacts of the 91 Montague Expressway Project. The proposed project would be required to comply with Midtown Specific Plan policies related to transportation including the traffic impact fees. Therefore, the 91 Montague Expressway Project would not create any new transportation impacts.

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

	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No New Impact
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, State, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DISCUSSION:**

The Midtown Specific Plan FEIR concluded that development associated with implementation of the Midtown Specific Plan would result in less-than-significant impacts on utilities and service systems, including water supply, wastewater treatment, and stormwater drainage. The Midtown Specific Plan FEIR concluded that there would be an increase in water demand associated with build-out of the Midtown Specific Plan. The Midtown Specific Plan FEIR determined that anticipated growth associated with development of the Plan could be accommodated by the SCVWD.

The Midtown Specific Plan determined that sewer flow capacity as a result of the build-out of the Midtown Specific Plan would result in an additional 0.4 mgd dry weather peak week flow discharge to the San Jose/Santa Clara Water Pollution Control Plant (WPCP) above the discharge anticipated in the General Plan (Impact Util-1). Cumulative growth within the City of Milpitas could require 12.9 millions of gallons per day (mgd) average dry weather peak week flow of wastewater treatment plant capacity in the year 2020, with approval of the Midtown Specific Plan which exceeds the City's Master Agreement of 12.5 mgd dry weather peak week flow by 0.4 mgd. However, potentially significant impacts would be reduced to less-than-significant levels with mitigations included within the Midtown Specific Plan FEIR.

The Midtown Specific Plan FEIR determined that implementation of the Midtown Specific Plan, including the proposed project, would not require construction of any additional stormwater system facilities. As such, build-out of the Midtown Specific Plan would not contribute runoff water that would exceed the capacity of the existing stormwater drainage system and no new stormwater drainage facilities would be required.

The increase in residential density under the Midtown Specific Plan would cause an increase in solid waste generation. Solid waste from the City is disposed of at the Newby Island Landfill which has an estimated life-span of 20 years. The Midtown Specific Plan noted that the incremental growth associated with the Midtown Specific Plan would not substantially shorten the landfill's life-span as it is consistent with the growth that has been anticipated in the life-span projections for the landfill. Thus, the solid waste disposal needs of the Midtown Specific Plan area would be accommodated for the foreseeable future.

Since Midtown Specific Plan FEIR adequately addresses utilities and service systems, and the development associated with the 91 Montague Expressway Project falls within the development assumptions evaluated in the Midtown Specific Plan FEIR, the proposed project has no new impact on utilities and public services. In addition, the proposed 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**

The proposed project would comply with the following policies.

#### **Midtown Specific Plan Policies**

- *Policy 5.5: Place street tree landscaping at the curb edges of sidewalks to improve the environment for pedestrians.*
- *Policy 6.1: Provide adequate water facilities to serve the needs of new development and apply water conservation techniques to help reduce overall demand*
- *Policy 6.2: Reduce water consumption through a program of water conservation measures, such as use of recycled water, water saving fixtures, and drought-tolerant landscaping.*
- *Policy 6.3: Construct necessary improvements to provide an adequate water service and fireflow capacity to serve new development.*
- *Policy 6.5: Provide for the sanitary sewage needs of existing and future development.*
- *Policy 6.6: Provide necessary improvements to the wastewater collection system to serve new development within the Midtown Area.*
- *Policy 6.7: Provide storm drainage infrastructure to adequately serve new development and meet City standards.*
- *Policy 6.17: Implement existing recycling programs in the Midtown Area.*
- *Policy 6.9: Provide necessary improvements to the storm drainage system to serve new development within the Midtown Area.*
- *Policy 6.10: Require project developers to coordinate with the appropriate service providers to provide electrical, gas and telecommunications services to new development.*
- *Policy 6.11: Incorporate energy saving devices into new development in order to promote energy conservation.*

### **CONCLUSION**

The Midtown Specific Plan FEIR adequately evaluated the utilities and service system impacts of the 91 Montague Expressway Project. In addition, the 91 Montague Expressway 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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### B. REFERENCES

Association of Bay Area Governments, 2000. *1999-2006 Regional Housing Needs (RHNF) 1996-2006 Allocation*.

Bay Area Air Quality Management District, 1997. *Bay Area 1997 Clean Air Plan*.

Bay Area Air Quality Management District, 2011. *CEQA Air Quality Guidelines*. May.

Earth Systems Pacific, 2012. *Update Soil Engineering Study and Liquefaction Analysis*. June 18.

Institute of Transportation Engineers, 2012. *Trip Generation Manual, 9<sup>th</sup> ed.*

Medina Consulting Corporation, 2001. *Phase I Environmental Site Assessment Al-Hilaal Islamic Charitable Foundation's Masjid Dar-us-Salaam 91 Montague Expressway Milpitas, CA 95035*. June 29.

Mei Wu Acoustics, 2013. *91 Montague Noise Report – Stage 1*. July 1.

Mei Wu Acoustics, 2013. *91 Montague Vibration Report – Stage 1*. July 7.

Milpitas, City of, 2002. *Final Environmental Impact Report for the Midtown Milpitas Specific Plan*. January.

Milpitas, City of, 2016. Cultural Resources Register. Available online at: [www.ci.milpitas.ca.gov/pdfs/plan\\_cultural\\_resources.pdf](http://www.ci.milpitas.ca.gov/pdfs/plan_cultural_resources.pdf) (accessed on June 13).

Milpitas, City of, 2001. *Draft Environmental Impact Report for the Midtown Milpitas Specific Plan*. October

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

Santa Clara County Airport Land Use Commission, 2011. *Comprehensive Land Use Plan, Santa Clara County, Norman Y. Mineta San Jose International Airport, Figure 8: Airport Influence Area*. May 25.

Underwood & Rosenblum, Inc., 2014. *Stormwater Control Plan for 91 Montague Expressway Milpitas, CA*. December.