



MILPITAS PLANNING COMMISSION STAFF REPORT

August 10, 2016

APPLICATION: 91 Montague Expressway – Site Development Permit (P-SD13-0020), Conditional Use Permit (P-UP13-0021) Tentative Tract Map (P-MT13-0008), and Environmental Assessment (P-EA16-0005). A request for recommendation to City Council for approval for a Site Development Permit, Conditional Use Permit, Tentative Tract Map, and Environmental Assessment to allow construction of 72 residential condominium units on approximately 1.794 acres in five, detached, four-story structures, all connected by a common hallway and a shared, below-grade garage with associated site improvements.

RECOMMENDATION: Staff recommends that the Planning Commission adopt Resolution No. 16-028 recommending approval of Site Development Permit SD13-0020, Conditional Use Permit UP13-0021, Tentative Tract Map MT13-0008 and Environmental Assessment EA16-0005 to the City Council, subject to the attached Conditions of Approval.

LOCATION:

Address/APN:

91 Montague Expressway (APN 086-34-023)

Area of City:

Northeast Corner of the Montague Expressway and South Main Street Intersection

PEOPLE:

Project Applicant:

Manou Movassate

Consultant(s):

LPMD Architects, Underwood & Rosenblum Inc., Reed Associate

Property/Business Owner:

Movassate Family Trust

Project Planner:

Cecilia Jaroslowsky, Contract Planner

LAND USE:

General Plan Designation:

Multi-Family Residential, Very High Density (VHD)

Zoning District:

Multi-Family Residential, Very High Density (R4)

Specific Plan:

Milpitas Midtown Specific Plan

Site Area:

1.8 acres (approximate)

ENVIRONMENTAL:

Exempt pursuant to Section 15168 of the California Environmental Quality Act (CEQA).

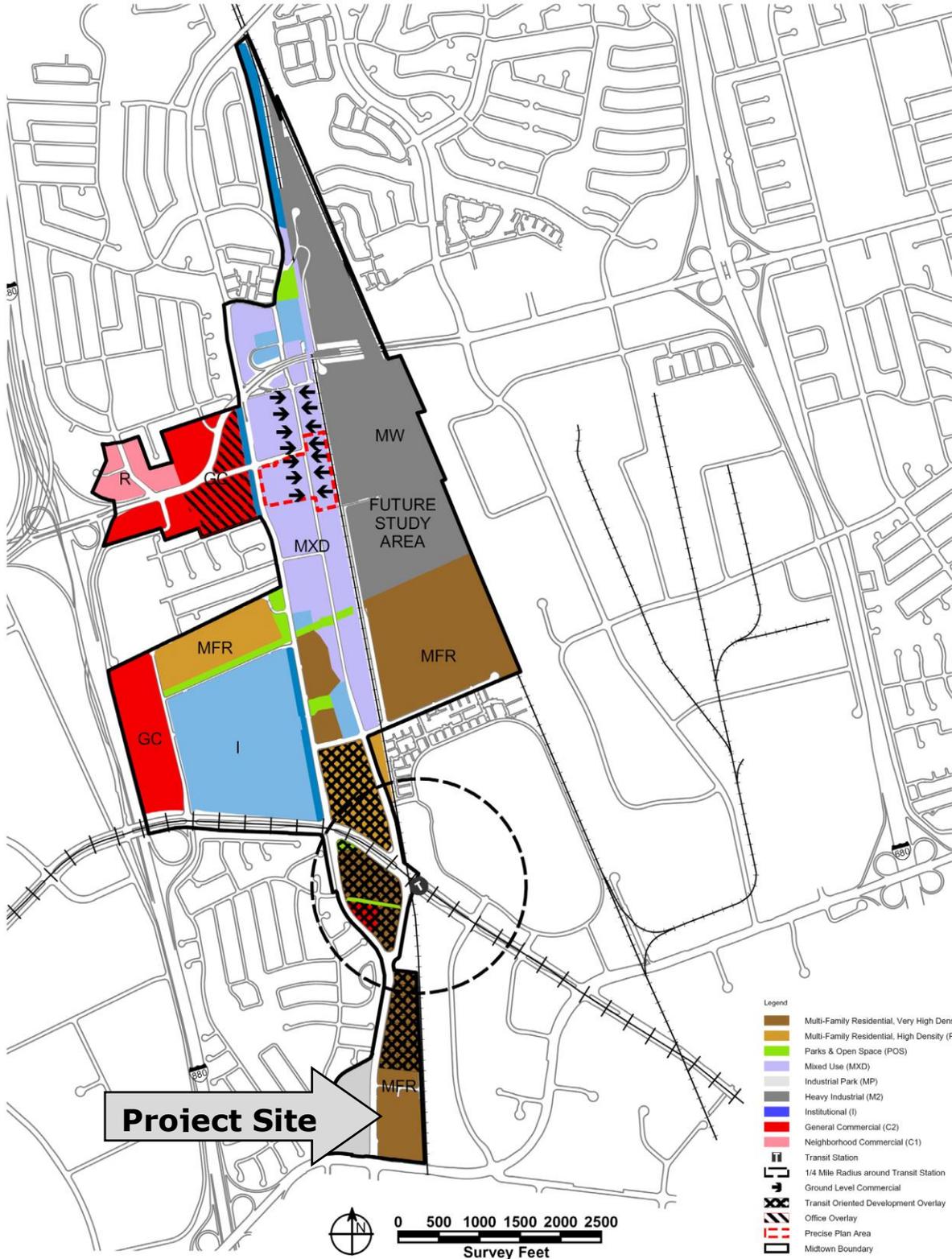
EXECUTIVE SUMMARY

The applicant is requesting a Site Development Permit, Conditional Use Permit, a Tentative Tract Map and Environmental Assessment to allow the construction of 72 residential condominiums in five, detached structures, connected by a common hallway, totaling approximately 154,00 square feet and a one-level, below ground shared parking garage. The project would also include private and shared open spaces consisting of an entry courtyard and two additional courtyards and private patios/balconies, on-site parking, landscaping and other associated landscape improvements.

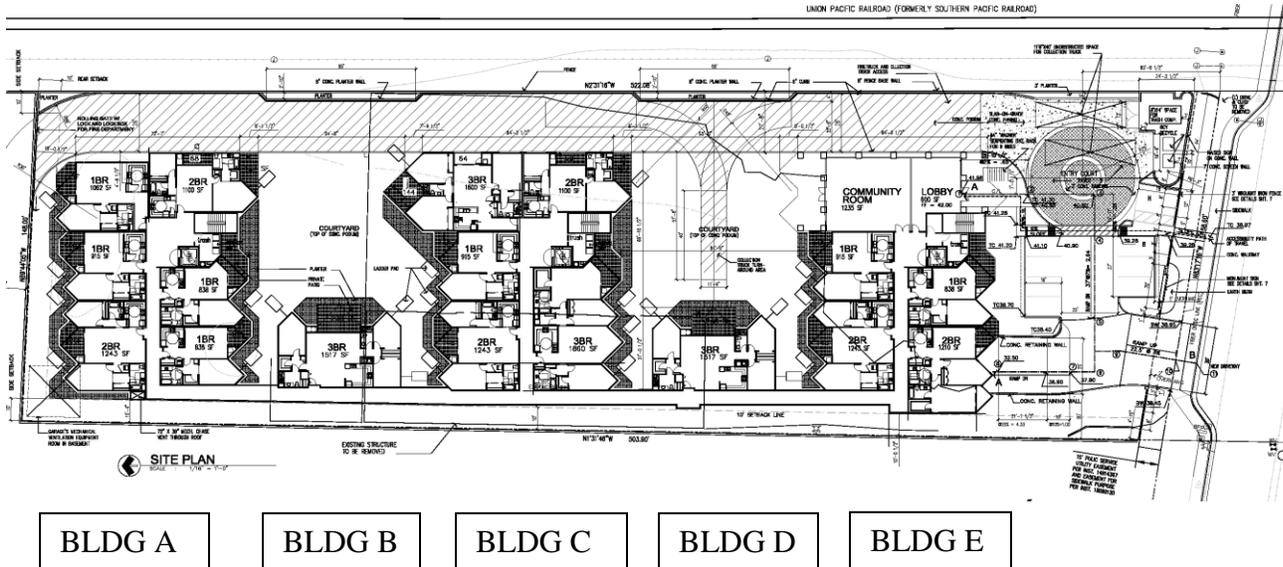
Map 1 **Project Vicinity Map**



Map 2 General Plan Map/Specific Plan Map



Map 3 Site Plan



BACKGROUND

History

On December 6, 2013, an application was submitted by the project applicant, Manou Movassate, to amend and replace the prior entitlements to allow the demolition of an existing, vacant structure and for the development of five, four-story, detached structures containing 72 residential condominiums with a one-level, below ground, shared parking area and associated landscaping and site improvements.

The Application

The project proposed by the applicant requires Planning Commission and City Council approval pursuant to Section 57 of the Milpitas Zoning Code for the following planning applications:

- *Site Development Permit*: to allow for new construction
- *Conditional Use Permit*: to allow the condominium use
- *Tentative Tract Map*: to allow the subdivision of the lot into condominium space

PROJECT DESCRIPTION

Overview

The proposed project is located on one parcel totaling approximately 1.8 acres and is bounded by a private street, Ede Lane to the north, Union Pacific Railroad tracks to the east (with a high density residential development beyond the tracks), Montague Expressway to the south, and a

high density residential development to the west. The subject property is zoned Multi-Family Residential, Very High Density (R4), and is located within the Milpitas Midtown Specific Plan area.

Table 1
Property Status

Factor	Status
General Plan Designation	Multi-Family Residential, Very High Density (31 – 40 units/acre)
Zoning District	Multi-Family Residential, Very High Density (R4)
Site Size	1. 79 acres
Present Use	Unused with vacant building to be demolished
Surrounding Zoning and Uses	North: Multi-Family Residential, Very High Density South: Industrial, City of San Jose East: Multi-Family Residential, Very High Density West: Multi-Family Residential, Very High Density
Access	Site access is from Montague Expressway

The proposed project includes a 72-residential unit, development located over a one-level shared, underground parking garage. The site design includes two common open space courtyard areas that would contain landscaping, outdoor seating areas and barbeques. The proposed buildings would have a maximum height of 50 feet. The residential units would contain one to three bedrooms; each residential unit would be between approximately 838 and 1,860 square feet. See Table 1 for residential unit specifications.

Table 2
Residential Unit Description

Number of Bedrooms	Approximate Square Footage (sq. ft.)	Total Number of Unit Type	Percent of Total (%)
3	1,517 to 1,860	18	25
2	1,100 to 1,243	26	36
1	838 to 1,063	28	39
TOTAL	--	72	100

The proposed project also includes a request for a Conditional Use Permit to allow the condominium use within this District pursuant to Title XI, Chapter 10, Section 7.14 of the Milpitas Municipal Code.

Location and Context

The site is currently occupied by a vacant industrial building. All existing structures and vegetation would be cleared. The project site is zoned Multi-Family Residential, Very High Density (R4).

Adjacent land uses include the following:

- *North:* An existing three-story multi-family residential development and Saf Keep Storage facility.
- *East:* Union Pacific Railroad right of way and Penitencia Creek, with existing three-story multi-family residential development beyond.
- *South:* Montague Expressway, with one-story office buildings beyond.
- *West:* A high density residential development, Jack in the Box restaurant, Shell Gas Station, with South Main Street beyond.

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan Conformance

The General Plan designation for the project site is Multi-Family, Very High Density (VHD), which is implemented with a zoning designation of Multi-Family, Very High Density (“R4”). The proposed use of the project site is in conformance with City’s General Plan and Zoning in terms of land use and development standards. The Multi-Family, Very High Density land use designation promotes a compact urban form and a variety of housing opportunities. This Land Use designation establishes a minimum density of 31 dwelling units per acre and a maximum density of 40 units per acre. The proposed project is consistent with the General Plan land use designation as shown in **Table 3**.

Table 3
General Plan Consistency

Policy	Conformance
2.a-G-2 Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.	Consistent: The project is utilizing the maximum allowable density for this designation and is in close proximity to retail and commercial uses, as well as transit corridors.
2.a-G-3 Provide for a variety of housing types and densities that meet the needs of individuals and families.	Consistent: The project includes a variety of housing types by incorporating one, two and three bedroom units into the project.

<p>2.a-G-7 When considering development proposals, seek “community benefit”, such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.</p>	<p>Consistent: The project would install and upgrade existing infrastructure, public streets and contribute to local programs.</p>
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Milpitas Midtown Specific Plan

The project site is located at the southeast border of the Milpitas Midtown Specific Plan. The purpose of the Specific Plan is to vitalize the Midtown Area by encouraging a compatible mixture of land uses, including residential, retail, office, service-oriented commercial and industrial. Additional goals of the Specific Plan include promoting an intensity of development that is appropriate to its central location and supporting major transit facilities in the area. The proposed project meets the goals and intent of the Specific Plan as discussed in **Table 4**.

Table 4
Milpitas Midtown Specific Plan Consistency

Goal or Policy	Consistency Finding
<p>Policy 3.4 Establish a minimum density of 31 units/gross acre in the multifamily, very high-density area and a maximum of 40 units/gross acre.</p>	<p>Consistent: The proposed project would construct the maximum allowable residential units within this district, 40 units per acre, meeting the density goal of the Plan.</p>
<p>Policy 3.5 Provide housing for all income levels throughout the Midtown area.</p>	<p>Consistent: The project includes a variety of housing sizes, including 1, 2 and 3 bedroom residential units, from 838 square feet to 1,800 square feet.</p>
<p>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 space.</p>	<p>Consistent: The applicant has met the requirement of this policy by providing a mixture of private open space on-site and a park in-lieu amount of \$912,962, in order to meet the parkland requirement.</p>
<p>Goal 1 Circulation Goal: Improve the viability of the pedestrian, bicycle and transit systems.</p>	<p>Consistent: The project includes the upgrade and improvement in the public right-of-way by installing required sidewalk and curb cut areas, as required by City codes.</p>
<p>Policy 5.2 Design buildings to create an attractive streetwall which defines and activates the street space.</p>	<p>Consistent: The project would improve the streetscape by installing required sidewalks, curb cuts and landscaping.</p>

The project meets several of the Specific Plans goals and policies, mentioned above, by developing a vacant and underutilized lot along a major thoroughfare, Montague Expressway.

Zoning Conformance

The approximately 1.8-acre project site is zoned Multi-Family Residential, Very High Density. This zoning allows for a minimum of 31 residential units per acre and a maximum of 40 residential units per acre. The Midtown Specific Plan also establishes development standards, design requirements, and provisions that address park, housing, school and public art objectives as discussed below.

Development Standards

The project site is a level, rectangular, vacant lot, with 158 feet of frontage along Montague Expressway to the south. The site is approximately 512 feet deep with a vacant industrial building and limited vegetation. The Union Pacific Railroad, formerly Southern Pacific Railroad, tracks are to the east of the site. As shown in Table 5, the proposed project is consistent with the development standards of the Multi-Family Residential, Very High Density (VHD and R4) zoning districts. The approval of a Conditional Use Permit (CUP) is required to subdivide the units into condominiums.

Table 5
Multi-Family Residential, Very High Density ("R4") Development Standards

Development Standards	Required	Proposed
Lot area minimum	None	1.8 existing acres
Lot width minimum	None	≤158 feet
Front yard setback minimum	8 min/15 max from back of sidewalk	10 feet
Side yard setback (Interior) Minimum	10 feet	10 feet
Rear yard setback minimum	10 feet	18 feet
Street Side Yard Setback, minimum	Same as front yard setback	
Building height maximum	60 feet, including architectural elements	50 Feet
Density	31 (minimum) to 40 (maximum) units per gross acre	40 units per gross acre
Maximum number of stories	4 Stories	4 Stories

Site & Architectural Design

Building Design, Architecture & Massing

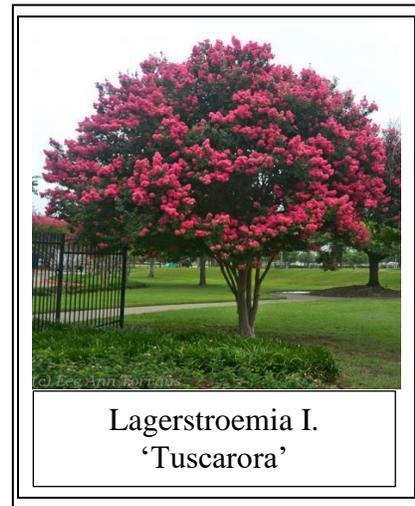
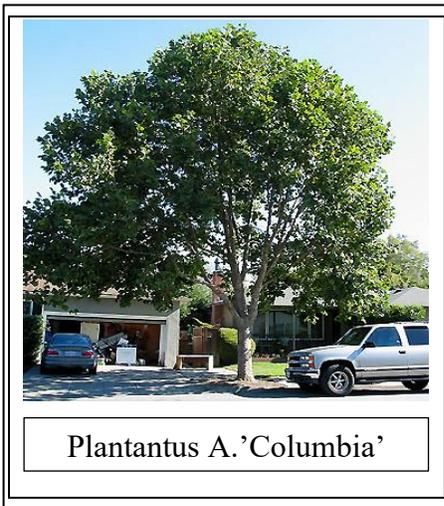
The building architecture and design is consistent with the Midtown Specific Plan (refer to Section B-Building Design) because it:

- Results in multi-family development that has the primary building entrance oriented toward the street to ensure a strong relationship to the community;
- Would provide exterior walls that contain a consistent style and employs materials and articulation to create shadow lines and avoid large blank walls;
- Proposes variations in roof heights and vertical planes to reduce the appearance of bulk and create a well-defined base by utilizing thicker walls and richly textured materials;

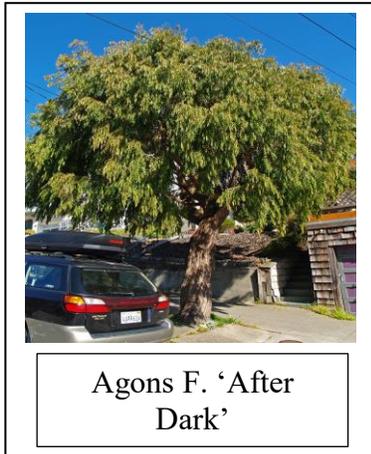
- Includes a main entrance and façade that incorporates a large courtyard area for visitors and residents;
- Includes extensive hardscaping and landscaping, to soften building exteriors and to provide useable outdoor space (See *Landscaping and Open Space Design* within this report);
- Proposes approximately 100 square feet of balcony and/or patio space per residential unit;
- Would use building colors and materials that include an earth tones (e.g. dark ceramic gray tile at the base and painted plaster on the majority of the exterior walls above the tile base) with a color accent of vertical ribbed blue metal siding to create visual interest; and
- Proposes streetscape and pedestrian amenities that provide a walkable frontage with street trees and landscaping between the sidewalk and building frontage.

Landscaping

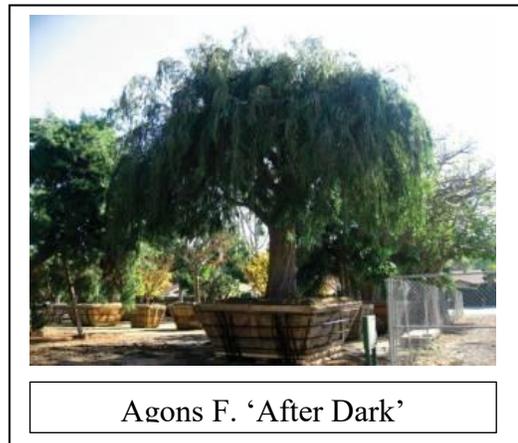
The applicant is proposing to install trees, a variety of shrubs and extensive ground cover, totaling 555 plants. All landscaping material will be water-wise plants and some will also assist with the required bio-filtration Best Management Practices for storm water runoff on the property. The applicant is proposing to install three large Plantantus A. ‘Columbia’ trees and one Lagerstroemia I. ‘Tuscarora’ along the project frontage on Montague Expressway along with a variety of shrubs and ground cover including, Lavender, and Rosa ‘White Carpet’ consistent with *Policy 5.5* of the Milpitas Specific Plan that promotes street tree landscaping along wide boulevards.



The project also includes the installation of approximately 22 Agons F. ‘After Dark’ trees along the property line abutting the Union Pacific Railroad, mitigating negative noise and visual impacts to residents. These trees will grow to approximately 15 wide and up to 25 feet tall.



Agons F. 'After Dark'



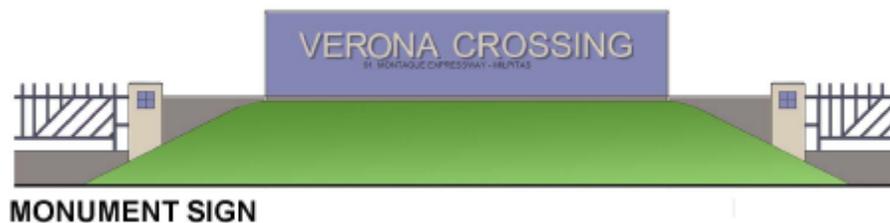
Agons F. 'After Dark'

Lighting

The project complies with the City’s lighting standards, which require that exterior lighting be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public right-of-way. Proposed lighting includes eighteen exterior wall-mounted LED lights that illuminate downward. The lighting plan includes the installation of two Outdoor LED light posts, to be located within the entry area of the project.

Signs

The applicant is proposing to install one, 12-foot wide by 2 and one-half feet tall, single, monument sign, to be located along the front of the site. The sign would be constructed above a one and one-half foot earth berm and include flood lights.



Entry to the below ground garage level is located on the westerly portion of the site and includes 150 vehicle parking spaces, as well as eight motorcycle spaces (see *Parking* section below). The garage level also contains three enclosed trash areas and includes a recycling area. One storage area abutting a secure area for 10 bicycle spaces and two enclosed areas for utilities are also on this level. All five structures would be connected by a common hallway along the western portion of the development.

Affordable Housing

The applicant is not proposing to construct any below market rate units within this project. **Policy 3.6** of the Specific Plan recommends up to 20% of new residential construction be affordable units, but pursuant to City Resolution No. 8491, this standard does not apply to new residential development applications submitted prior to June 16, 2015. The application to develop 91 Montague Expressway was submitted in 2013 and the affordable housing requirement therefore does not apply. Further, the project meets the intent of **Policy 3.1** and the Residential Policies of the Specific Plan by constructing much needed and desirable residential units located in a high density district within the City.

Tree Removal and Replacement:

The existing project site does not contain any significant trees or landscape material to be removed. The project includes grading and the installation of extensive hardscape and landscape material. See below.

Parkland Dedication

Residential development within the Midtown Specific Plan are obligated to either provide parkland and recreation facilities, or to pay a Parkland Fee in-lieu of parkland dedication. The Specific Plan requires dedication equivalent to 3.5 acres for every 1,000 residents. The Parkland Fee is based upon the estimated number of persons expected to inhabit the development (per U.S. Census definitions), and the estimated value of parkland in the City of Milpitas (currently \$64 per square foot/\$2,787,840 per acre).

Applicants may receive credit against their parkland obligations through the provision raw land, payment of fees-in-lieu, credit for turnkey park projects, or a combination thereof. Projects may also receive credit for private recreation elements that are accessible only to project residents, at the sole discretion of the City. If approved, private recreation credit may be used to satisfy up to 43% of the overall parkland requirement (1.5 acres out of the 3.5 acres per 1,000 residents required).

The project proposes to address this requirement through a combination of private recreation space and payment of a parkland fee in the amount of approximately \$913,000 as summarized in Table 6.

Table 6
Parkland Requirement Calculations

Parkland Dedication/In-lieu Fee Analysis	Fee Equivalent	Acre Equivalent
Required Acres or Fees		
Parkland Required (acres)	\$1,749,314	0.63
Parkland Credits		
Private Recreation Credit (\$2,787,840/ acre)	\$836,352	0.30
Remaining Obligation		
Remaining Obligation	\$912,962	0.33

Recreational areas within the courtyard include outdoor amenities such as outdoor seating areas, arbors and decorative raised planters. Each courtyard will allow residents to access permanent barbeques to enjoy the outdoor area.

Parking

The Midtown Specific Plan requires off-street parking for the proposed residential project, with required parking ratios set out in Table 8.1 (“Development Standards Matrix”) of the Plan. Table 7 below demonstrates the projects’ compliance with the parking standards.

Table 7
Parking Spaces

Unit Type	Number of Units	Minimum Parking Required	Minimum Spaces Required	Spaces Provided	Conforms (Y/N)
1 BR	28	1.5 per unit	42	42	Y
2 BR	26	2 per unit	52	52	Y
3 BR	18	2 per unit	36	36	Y
<i>SUB-TOTAL:</i>			130	130	Y
Guest		15% of required residential spaces	20	20	Y
Bicycle		5% of required residential spaces	7	10	Y
Motorcycle		0	0	8	Y
TOTAL PARKING				158	Y

Bicycle Parking

The project is required to install bicycle parking stalls equivalent to 5% of the total parking required for the proposal. The applicant is installing 10 bicycle spaces, 3 more than the minimum required.

Climate Action Plan

The Climate Action Plan (CAP), adopted on May 13, 2013, addresses GHG issues for small infill projects so that no further greenhouse gas emissions analysis is necessary. This project supports Goal 5 of the Climate Action Plan:

PROVIDE AN ECONOMICALLY SUSTAINABLE MIXED-USE COMMUNITY FOCUSED ON HIGH-DENSITY DEVELOPMENT AROUND CENTRAL URBAN PLAZAS AND GATHERING PLACES.

The project will comply with the Cal Green Building Standards, which provides for greater energy efficiency and reductions in greenhouse gas emissions.

Public Art Requirements

The Midtown Specific Plan requires that projects “[i]ntegrate public art, including sculpture, mosaics, murals, and decorative water features into new office, civic, public institutional, and public spaces in the Midtown Area.” (Policy 5.10) Additionally, pursuant to Section **XI-10-14.03** of the Planning Code, residential development projects of 20 or more new dwelling units

shall devote an amount not less than one-half of one percent of the building development costs to acquire and install publicly accessible art on the development site. Staff is recommending a condition of approval requiring the applicant to demonstrate compliance with the Public Art Fund requirement under Section XI-10-14.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Staff has found that the proposed project is consistent with the General Plan, Milpitas Midtown Specific Plan, Zoning Ordinance, Subdivision Ordinance, and all other required Findings as identified in Attachment 1 (Resolution 16-028).

ENVIRONMENTAL REVIEW

The City evaluated environmental issues based on the environmental checklist contained in Appendix G of the CEQA Guidelines. The responses to the checklist questions confirm that potential project impacts were considered and mitigated in the Milpitas Midtown Specific Plan and Final Environmental Impact Report (“FEIR”) certified by the Milpitas City Council on March 2002 that no new impacts were identified, and that no new mitigation measures are required for the project. Consequently, no additional CEQA review is required pursuant to §15168(c)(4) of the CEQA Guidelines.

Further, in a report completed on July 2013 by Mei Wu Acoustics, experts in acoustics, noise and vibration, regarding the effects of the railroad activity to the proposed development, the following was determined:

“Vibration levels were monitored for 26 hours on the project site at the nearest receiver. Two trains were measured over that period of time. The measured Lmax (maximum RMS over one second) was 6234 mips (or 75.9 VdB), as shown at the end of Section 1.b of this report.

The maximum vibration level established by the city for residential projects with fewer than 30 events per day is 10000 mips (or 80 VdB).

The present project complies with the established criteria and no vibration mitigation measures are needed as established by the city code.”

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.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of publishing this report, there have not been public comments received. A notice was published in the Milpitas Post on July 15, 2016. In addition, 1,058 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also posted on the project site, on the City’s Website, www.ci.milpitas.ca.gov, and at City Hall.

CITY COUNCIL REVIEW

This project requires review and approval by the City Council and is tentatively scheduled on its September 20, 2016 agenda, and contingent upon the results of the Planning Commission’s public hearing.

CONCLUSION

The proposed project is consistent with the policies and guiding principles identified in the General Plan, the Milpitas Midtown Specific Plan, and the Milpitas Municipal Code, with the conditions of approval recommended to the Planning Commission. The proposed project will contribute towards the City's housing stock, improve an underutilized lot, as well as improve and upgrade a portion of Montague Expressway.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close the Public Hearing
2. Adopt Resolution 16-028 recommending approval of the Site Development Permit No. SD13-0020, Conditional Use Permit No. UP13-0021, Tentative Tract Map No. MT13-0008, and Environmental Assessment EA16-0005 to the City Council, subject to the attached Conditions of Approval

ATTACHMENTS

- A: Resolution 16-028
- B: Project Plans
- C: CEQA Exemption Memo for 91 Montague Expressway