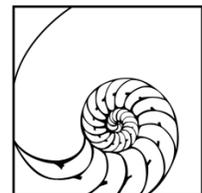


**260 S. Main St. Project—City of Milpitas**  
**CEQA Analysis--Final**

**Lead Agency:**  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, CA

**Prepared By:**  
Lamphier–Gregory  
1944 Embarcadero  
Oakland, CA 94606



November 3, 2016

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## General Project Information

1. **Project Title:** 260 S. Main St.
2. **Lead Agency Name and Address:** City of Milpitas  
Building & Safety Department  
455 East Calaveras Boulevard  
Milpitas, CA
3. **Contact Person and Phone Number:** Bhavani Potharaju, Contract Assistant Planner  
408-586-3284
4. **Project Location:** 260 S. Main Street, Milpitas
5. **Assessor's Parcel Numbers:** 086-27-014; 086-27-052; 086-27-051; 086-27-009
6. **Project Sponsor's Name and Address:** Andrew Warner  
City Ventures  
444 Spear Street, Suite 200  
San Francisco, CA 94105
7. **Existing Zoning:** MXD (Mixed Use District)
8. **Requested Permits:** Specific Plan Amendment  
Site Development Permit  
Tentative Map  
Environmental Assessment

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# Executive Summary

## Background

The City of Milpitas (“City”) is located at the northern edge of Santa Clara County, bounded by San Jose to the south and west, Fremont to the north, and unincorporated land to the east. The city is at the crossroads of I-880 and I-680, Highway 237, and the Montague Expressway. The Midtown Area of Milpitas lies between these major vehicular routes at the southern edge of the city.

In late 1999, the City initiated a planning process for the Midtown Area that encompassed 942 acres of land in the center of the city. The Milpitas Midtown Specific Plan (MMSP) was intended to: (1) guide the development of the Midtown Planning Area; (2) encourage development that responds to City and regional objectives, such as a compatible mixture of residential, retail, and commercial uses; (3) reflect neighborhood considerations; and (4) encourage private investment in the area.<sup>1</sup> In March 2002, the City of Milpitas adopted the Plan and certified its EIR.

In 2004, the City made certain zoning modifications to facilitate the creation of new city parks and the Terra Serena residential development. The historic O’Toole elm grove was recreated as a new interpretive park between Abel and S. Main Street and is larger than envisioned in the original Specific Plan.

In 2008, in response to the MMSP Policy 7.5, the City adopted a new plan--the Transit Area Specific Plan, which encompassed the area between the Great Mall, Main Street, South Milpitas Boulevard and Montague Expressway. This plan focused on the development potential surrounding the now existing VTA light rail stations and the future Bay Area Rapid Transit (BART) station, encouraging the creation of transit oriented neighborhoods and infill development opportunities. Some of this area overlapped the Midtown Area, and with the adoption of the Transit Area Specific Plan in June 2008, approximately 100 acres were removed from the MMSP.

This amendment removed an industrial area at the southeastern edge of the MMSP that was not encompassed by the new Transit Area Specific Plan. This area was removed from the MMSP because it was no longer contiguous to the remaining planning area.

Subsequent to these changes, the MMSP was updated in 2010 to provide a new vision for the now approximately 589-acre area of land which is currently undergoing changes related to its growing role as a housing and employment center in Silicon Valley. The MMSP proposes transit-oriented residential and commercial redevelopment on generally industrial land around existing light rail stations and the new BART station (under construction, expected to begin operations in Fall 2017) in the City of Milpitas.

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<sup>1</sup> Milpitas Midtown Specific Plan, updated 2010, p.1-1.

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## Project Summary

City Ventures (“Applicant”) is planning to construct a mixed-use development with 25 3-story townhome-style condominium units and approximately 2,000 square feet (sf) of ground-floor retail commercial development in four (4) buildings on a 1.193-acre site located at 260 S. Main Street in the City of Milpitas (“Project”). The proposed Project is consistent with the “Mixed Use” land use designation for the site in the MMSP. The residential units will include five (5) 2-bedroom and twenty (20) 3-bedroom condominium units. The units will be wood-framed Type V (B) construction. The Project would include a total of 66 parking spaces: 8 spaces for retail customers, 8 spaces for guests, and 50 covered spaces reserved for use by residents of the townhouses.

The Project site is within the Milpitas Midtown Specific Plan (MMSP) area, approximately 500 feet south of the intersection with Serra Way. It is an “L” shaped site bounded by Sinnott Lane to the south, S. Main Street to the west, adjacent single-family residences to the north and the Union Pacific Railroad right-of-way to the east. Structures on the site currently include one existing occupied residential home, a garage/shed, a separate approximately 2,000 square foot vacant commercial building, and gravel parking/storage lots. The Project proposes to remove all existing structures and uses.

The Project would require approval by the City of Milpitas of a Site Development Permit and Tentative Parcel Map.

The major construction-related elements include:

- Demolition of existing structures
- Site grading, including surface preparation, utility connections and limited excavations for the foundation, footings and utility services.
- Construction of four buildings, one of which includes ground floor commercial space
- Horizontal board sound walls (8’) will be built at the rear of the property and on both sides (north and south) that adjoin neighboring properties.

## CEQA Findings

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR as included in the CEQA Checklist below for the Project, the MMSP EIR, certified by the City in 2002, fully and adequately analyzed the potential environmental impacts associated with the proposed Project. Further, the Project complies with the policies included in the MMSP such that CEQA streamlining and exemption provisions apply to the Project. Therefore, in accordance with CEQA Guidelines Section 15168, the proposed Project is exempt from further CEQA review because the following finding can be made:

- **Use of a Program EIR with Later Activities:** CEQA Guidelines Section 15168 (Program EIRs) provides that the 2002 MMSP EIR can be used as a Program EIR in support of streamlining and/or tiering provisions under CEQA. Section 15168 (a) defines the “program EIR” as one prepared on a series of actions that can be characterized as one large project and are related geographically and by other shared characteristics. Section 15168 (c) states that “subsequent activities in the program EIR must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.” If the

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agency finds that pursuant to CEQA Guidelines Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR and no new environmental document would be required.

As demonstrated in the CEQA Checklist in this document, the Project will not cause new effects or require new mitigation measures not presented in the MMSP EIR. The analysis in the MMSP EIR and in this CEQA Analysis demonstrates that the Project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR, per CEQA Guidelines Section 15162, because the level of development proposed for the site is within the broader development assumptions analyzed in the Program EIR. The effects of the proposed project were addressed in that EIR and no further environmental documents are required in accordance with CEQA Guidelines Sections CEQA Guidelines Section 15168.

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# CEQA Analysis

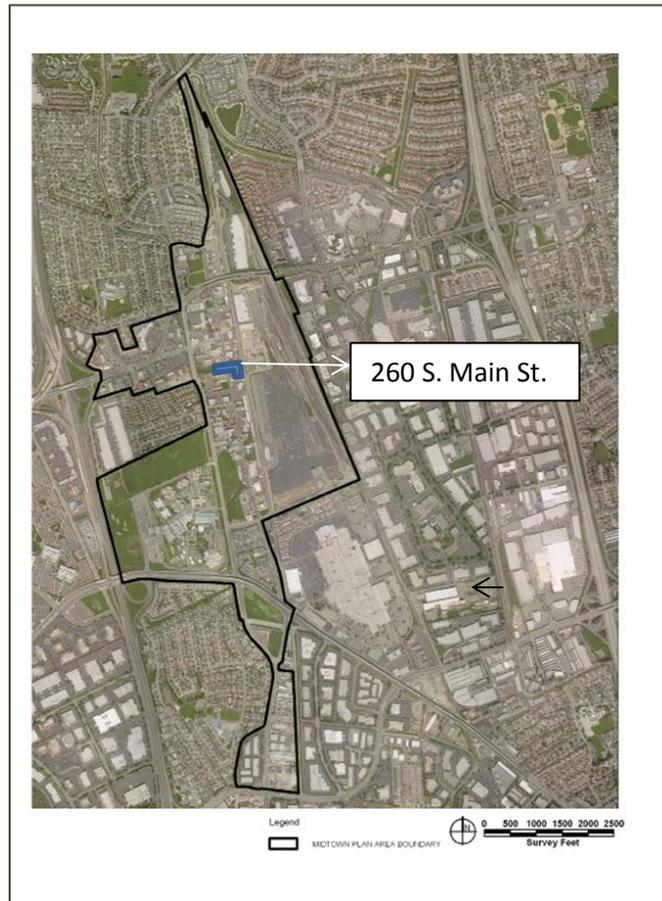
## Project Description

### Location and Site

The Project site is located at 260 S. Main Street in Milpitas, approximately 500 feet south of the intersection with Serra Way (Figure 1). It is bounded by Sinnott Lane to the south, S. Main Street to the west, adjacent single family residences to the north; and an active spur of the Union Pacific Railroad Warm Springs Subdivision Main Line, which runs parallel to the eastern site boundary. The tracks lie approximately 30' east of the rear property line.

Structures on the site currently include a residential structure and associated garage/shed, a commercial building, and gravel parking/storage lots. The Project proposes to develop the site into a predominantly residential land use with 25 townhouse-style condominium units and approximately 2,000 square feet of ground floor commercial space, consistent with the "Mixed Use" land use designation given to the site in the MMSP. The commercial space will be located on the ground floor of one of the four proposed residential buildings.

**Figure 1. Project Location within Midtown Milpitas Plan Area**

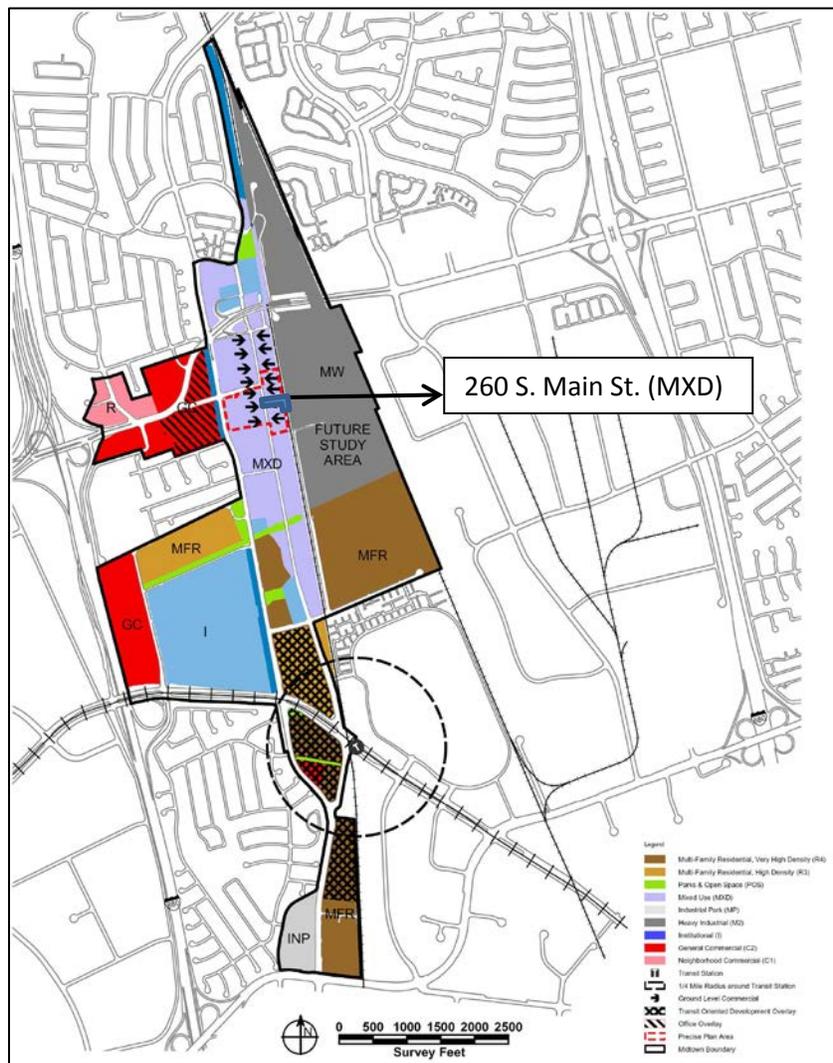


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## Milpitas Midtown Specific Plan

Since the adoption of the MMSP, over 456 residential units have been constructed, and another 768 have been approved in the MMSP area. Overall, the MMSP provides for up to 2,328 new dwelling units and supporting retail development, new office developments at key locations, bicycle and pedestrian trails linking the areas together and new parks to serve residential development. The MMSP establishes a land use and development framework, identifies needed transportation and infrastructure improvements and recommends implementation strategies.

**Figure 2. Zoning Designations for Midtown Area**



## Zoning

The MMSP introduced a new zoning designation into the City General Plan: MXD, meaning mixed-use district, including both residential and commercial. The Project is located within this designation and

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meets the requirements for height, density, and building intensity for this zone as detailed in the Development Standards and Design Guidelines of the MMSP.

#### Vehicular Access and Circulation

The primary access to the site would be from S. Main Street into a small new street (26' wide) running perpendicular to S. Main St. into the development. The site will include 66 total parking spaces at grade: 50 covered residential spaces in a two-car garage associated with each unit, six on-street parking spaces and twelve (12) shared guest/commercial spaces in an on-site surface lot. The site is roughly equidistant between two cross streets, each approximately 500' away--Serra Avenue to the north and Corning Avenue to the south. Serra is a signalized intersection with S. Main, with a Level of Service (LOS) from the 2002 MMSP EIR of A; the intersection of S. Main with Corning is not signalized (stop sign only), with an LOS of B.

Three on-site and four off-street bike parking spaces will be provided.

The subdivision will create three asphalt drive aisles within its boundaries for ingress and egress. These streets will be privately maintained.

#### Landscape

The existing property has 10 trees on site, eight of which are proposed for removal. Eighteen (18) new trees will be provided on site, excluding eight street trees along Project street frontages. The landscaping plan includes planter pots, tree grates, shrubs, bushes and succulent/gravel landscapes between and around the buildings. Plant materials suitable for bio-infiltration basins would be selected from C.3 guidelines pursuant to the Santa Clara Valley Regional Stormwater Permit.

#### Design

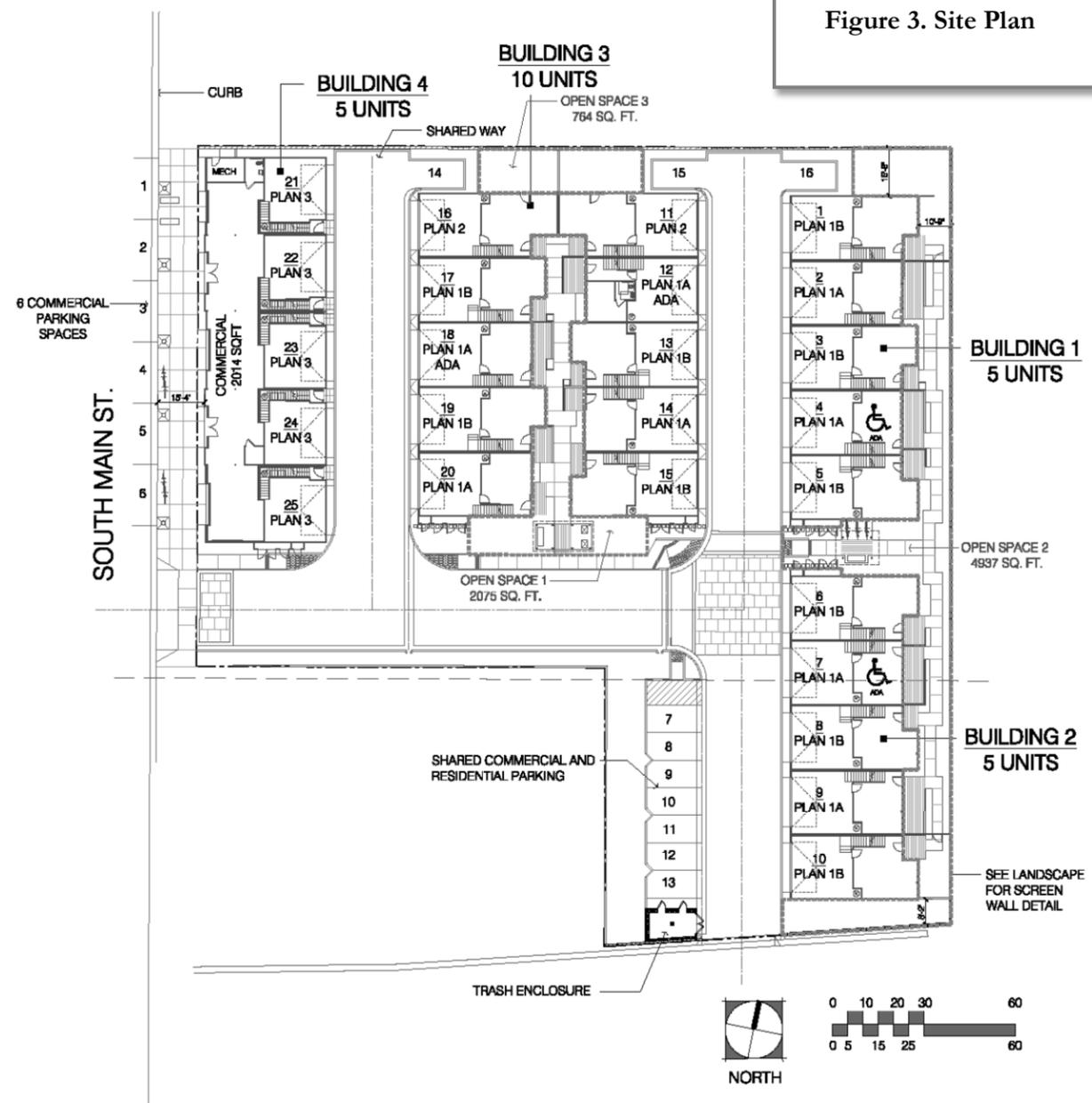
The proposed building will be type V-B construction, per the California Building Code, 2013 Ed. It will be a certified Greenpoint-rated building, with a target of 60 points, above the 50 points required in Milpitas Municipal Code Section 11-20-3.01.

The Project consists of four buildings, three of which will contain five residential units each and one will contain ten. The exterior of the residential buildings will include both horizontal lap siding and stucco, while the commercial frontage will be faced with brick. The roof will be utilized for stormwater retention/filtering. Roofs will be flat and disconnected downspouts directed in order to convey stormwater runoff to the planter area through an area drain network. The total building coverage would be approximately 20,432 sf, with 8,387 sf (16%) of open space.

#### Utilities

On-site utilities would be designed in accordance with applicable codes and current engineering practices. The existing storm sewer manholes, overhead electric lines, and HP-gas lines will remain in place, using the existing public utility easement. Onsite utilities include gas, energy, domestic water, wastewater and storm drainage, which would be upgraded on the site as necessary.

Figure 3. Site Plan



PROJECT DATA		
PROJECT NAME: 260 SOUTH MAIN ST.		
PROJECT ADDRESS: 260 S. MAIN STREET, MILPITAS, CA 95035		
ZONING : MIXED USE ZONING DISTRICT - MIDTOWN SPECIFIC PLAN		
GROSS SITE AREA	1.193 AC	51833 SQ. FT.
TOTAL COMMERCIAL (DIVISIBLE)		2114 SQ. FT.
TOTAL DWELLING UNITS	25	21 DUA
OCCUPANCY	R2/U/B	
CONSTRUCTION TYPE	V-B	
BUILDING COVERAGE (GROUND FLOOR)	20,432 SQ. FT.	39%
USABLE OPEN SPACE (OPEN SPACE 1 - 2 - 3)	7776 SQ. FT.	8443 : 51956 ~ 16%

	MIDTOWN SPEC. PLAN	PROVIDED
DENSITY	21 DUA TO 30 DUA	21 DUA
FAR SEE CALCULATION AT SHEET CA	0.75	2,014 : 51,956 ~ 0.04
PARKING	2 SPACE/3 BED	50 SPACES
GUEST PARKING	TBD	6 SPACES
RETAIL PARKING	6 SPACES/1000 SF 8 REQUIRED	12 SPACES

UNIT SUMMARY & TYPICAL SQFT.			
UNIT TYPE	TOTAL	TOTAL LIVING	GARAGE
PLAN 1A (3 BED)	8	1,831 SF.	442 SF.
PLAN 1B (3 BED)	10	1,865 SF.	441 SF.
PLAN 2 (3 BED)	2	2,099 SF.	442 SF.
PLAN 3 (2 BED)	5	1,887 SF.	462 SF.
TOTAL	25 DU		

BUILDING SUMMARY				
BUILDING	UNIT	COUNT	COMMERCIAL	SQ. FT.
BUILDING 1 (BLDG. 2 SIM.)	PLAN 1A	4	N/A	23,772 SQ. FT. (BLDG 1 & 2)
	PLAN 1B	6	N/A	
BUILDING 3	PLAN 1A	4	N/A	23,970 SQ. FT.
	PLAN 1B	4	N/A	
BUILDING 4	PLAN 2	2	N/A	13,341 SQ. FT.
BUILDING 4	PLAN 3	5	2,114 SF.	13,341 SQ. FT.
TOTAL		25 DU		61,197 SQ. FT.

\* NOTE :  
FOR DETAIL SPACE TABULATION OF EACH BUILDING SEE BUILDING PLAN SHEETS

260 S. MAIN ST.  
MILPITAS, CALIFORNIA



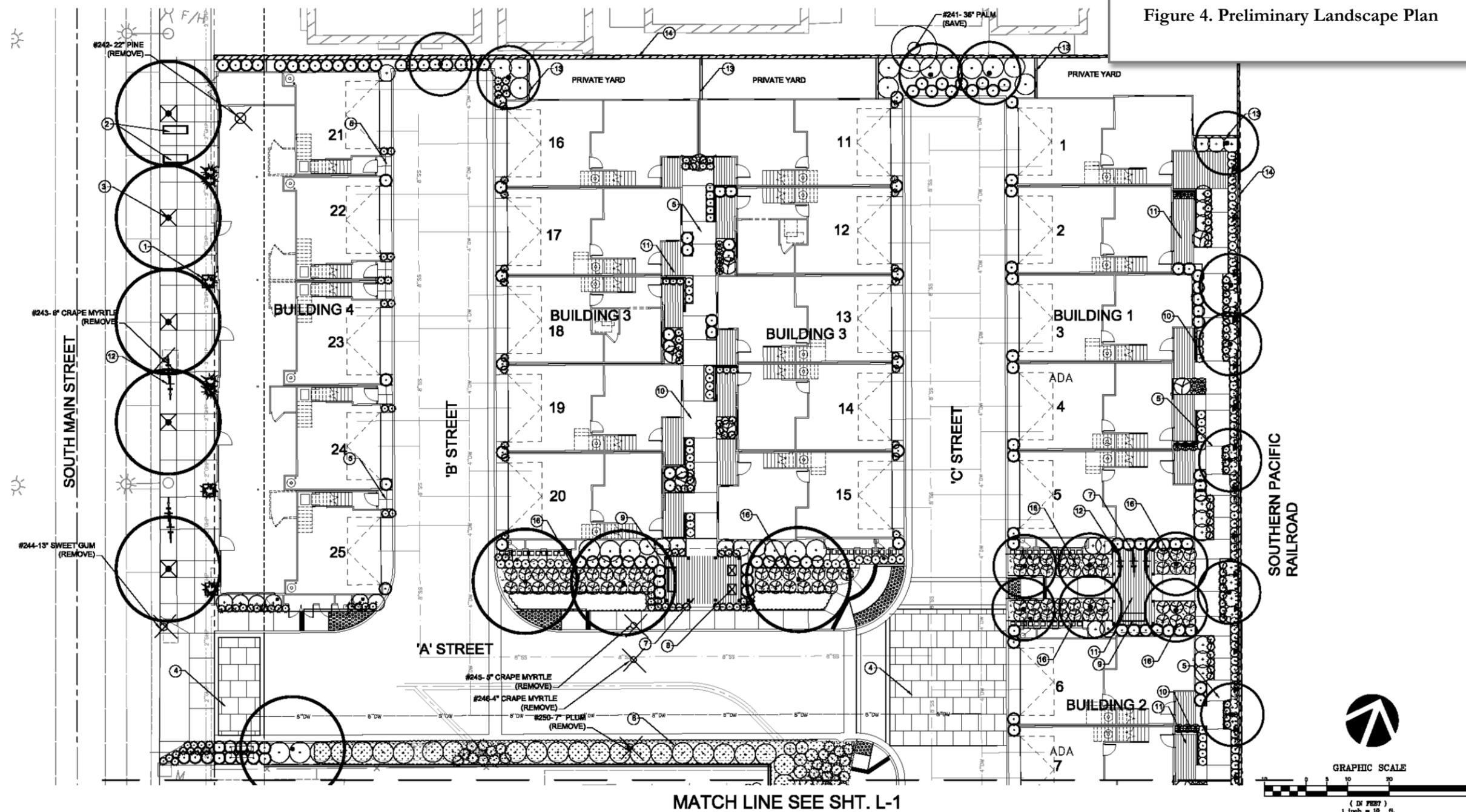




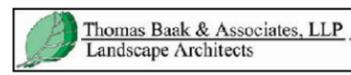
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 444 Spear Street, Suite 105  
 San Francisco, CA 94105  
 www.hunthalejones.com  
 t. 415-512-1300  
 f. 415-268-0288

SITE PLAN & PROJECT DATA  
**SP1**  
 SCALE: 1" = 20' - 0"  
 DATE: 10.21.2016  
 PROJECT: 317046

Figure 4. Preliminary Landscape Plan



MILPITAS 1  
MILPITAS, CALIFORNIA



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f. 415-288-0288

PRELIMINARY  
LANDSCAPE  
PLAN

L-2

DATE: 4.20.16  
PROJECT: 317046

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For solid waste handling, the Project proposes to have one enclosure, which will house bins for both refuse and recycling, combining commercial and residential. Two top-loading bins (one for recycling, one for reuse) will be used, designed for the City's contractor to move the bins out of the enclosure, so the enclosure will not have to be approached head-on by the truck.

The site contains 43,700 square feet (sf) of impervious surface. As part of stormwater management, a private storm drain system will be constructed. The area drain network will collect the drainage and direct it through a perforated drain pipe beneath a flow-through planter area. Overflow outfall will go through an overflow pipe that routes to the curb on the easterly side of S. Main Street. Because of the irregular shape of the site, various landscape areas will be incorporated throughout the Project to provide stormwater treatment.

#### Project Construction

Construction is expected to begin in the fourth quarter of 2017 and take approximately 12 months to complete.

Construction would require removal of the existing structures and paved features at the Project site, and all demolition material would be disposed of off-site. Grading will include surface preparation, utility connections and limited excavations for the foundation, footings and utility services. Horizontal board sound walls (8' high) will be built at the rear of the property and on the north side, which adjoins neighboring residences.

In order to protect indoor air quality given the proximity of the Project to an active rail line, the Project will install HVAC equipment that meets acceptable filtration performance levels (MERV-13).

#### Equipment and Staging

Typical equipment that would be used during construction would include an extendable forklift, generators, excavator, loader, dump trucks, elevator man/material lift, and extendable lifts. There is a potential that pile drilling will be used for the foundation support. All construction equipment, employee vehicles, and import material would be staged on-site or nearby.

#### Applicable Previous CEQA Document

The Milpitas MMSP (MMSP) EIR, certified in 2002, is the "applicable previous CEQA document" considered in the CEQA Checklist analysis. The MMSP EIR is hereby incorporated by reference and may be obtained from the City of Milpitas Planning and Building Department, 455 East Calaveras Boulevard, Milpitas, CA. The MMSP EIR may also be downloaded from the City of Milpitas website at: <http://www.ci.milpitas.ca.gov/planning-documents/midtown-specific-plan/>.

The 2002 MMSP EIR meets the requirements of a "Program EIR" under CEQA Guidelines Section 15168. As such, projects proposed under the MMSP are subject to requirements under the aforementioned CEQA section.

#### *Environmental Effects Summary*

The MMSP EIR determined that commercial development consistent with the MMSP in the Plan Buildout area would result in the following **impacts reduced to a less-than-significant level** with the implementation of mitigation measures and policies adopted as part of the Plan:

- Air Quality (construction emissions producing substantial amounts of PM<sub>10</sub>);

- 
- Biological Resources (effects on burrowing owls, raptors);
  - Hazardous Materials (exposure to soil and groundwater contamination during and/or following development);
  - Cultural Resources (locally-designated resources and those identified as potentially significant in the Historic Sites Inventory, known archaeological resources near Penitencia Creek);
  - Utilities (wastewater effluent from Plan activities exceeding City's current Master Agreement);
  - Traffic and Circulation (degradation of some intersection levels of services, mitigatable)—this category includes the closest intersection to the south of the Project, an unsignalized intersection at S. Main St. and Corning Avenue.

In adopting the Plan, the City also adopted the recommended mitigation to signalize this intersection as Policy 4.8 of the Specific Plan. This policy was subsequently incorporated into the City of Milpitas Municipal Code in Section XI-10-11.06.A, which applies the policies set forth in the MMSP to new buildings constructed within the Milpitas Midtown. However, the City does not apply this Policy to projects which do not meet the trip generation threshold for the Valley Transportation Authority's Transportation Impact Analysis.<sup>2</sup>

**Impacts were not significant** for agricultural resources, land use and planning, mineral resources, population and housing, from the Initial Study that preceded the EIR. The EIR found that impacts would be less than significant for geology and soils, hydrology and water quality, aesthetics, and noise.

**Significant unavoidable impacts** were identified for the following environmental resources in the MMSP EIR:

- **Transportation**
  - Implementation of the proposed Midtown Plan would result in significant traffic impacts at fourteen (14) intersections in and surrounding the Midtown area; for eight (8) intersections feasible mitigation measures are not available.
  - Implementation of the proposed Midtown Plan would exacerbate already unacceptable traffic operations on one (1) of the ten (10) study freeway segments intersections during AM peak hours on all ten (10) segments (one or both directions) during PM peak hour; and
  - Implementation of the proposed Midtown Plan would significantly exacerbate AM peak hour operations on ten (10) roadway segments that are projected to operate at unacceptable levels under the current General Plan.
- **Regional Air Quality**--Implementation of the proposed Plan would further contribute to the exceedance of State and federal ambient air quality standards for reactive organic gases (ROG), oxides of Nitrogen (NOx), and PM<sub>10</sub>. Though the Specific Plan contains policies that would help

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<sup>2</sup> Personal email communication from Steve Chan, Traffic Engineer, City of Milpitas to Bhavani Potharaju, Planner, October 19, 2016.

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to reduce emissions, the Plan could not be feasibly developed without an increase in emissions above the significance thresholds. Thus this impact was still considered significant and unavoidable.

Due to the potential for significant unavoidable impacts, a Statement of Overriding Considerations was adopted as part of the City's approvals of the MMSP EIR. The specifics of the significant and unavoidable impacts and relationship to the current Project are further discussed under the appropriate topic area in the following CEQA checklist.

## **CEQA Streamlining for the Project**

The CEQA streamlining provision that is applicable to the 260 S. Main St. Project is described below.

### **I. Use of a Program EIR with Later Activities—Section 15168**

CEQA Guidelines Section 15168 (Program EIRs) provides that the 2002 MMSP EIR can be used as a Program EIR in support of streamlining and/or tiering provisions under CEQA. Section 15168 (a) defines the "program EIR" as one prepared on a series of actions that can be characterized as one large project and are related geographically and by other shared characteristics. Section 15168 (c) states that "subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared." If the agency finds that pursuant to CEQA Guidelines Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR and no new environmental document would be required.

As demonstrated in the CEQA Checklist beginning on p. 19 of this document, the Project will not cause new effects or require new mitigation measures not presented in the MMSP EIR. The analysis in the MMSP EIR and in this CEQA Analysis demonstrates that the Project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR, per CEQA Guidelines Section 15162, because the level of development proposed for the site is within the broader development assumptions analyzed in the Program EIR. The effects of the proposed project were addressed in that EIR and no further environmental documents are required in accordance with CEQA Guidelines Section 15168.

Therefore, the Project meets the criteria for streamlined review under CEQA Guidelines Section 15168.

### *City of Milpitas Applicable Policies, Development Standards, and Design Guidelines*

The City of Milpitas's MMSP (2010 Update) includes Policies, Development Standards, and Design Guidelines that were adopted by reference into the Milpitas Zoning Code in 2010 (Municipal Code Section XI-10-11.06.A). These are the regulations that govern new construction, as well as alterations and additions, in the Milpitas Midtown Plan Area, and they form the basis for the standard conditions of approval for a Site Development Permit. Together, these standards incorporate development policies and standards from various adopted plans, policies and ordinances that have been found to mitigate environmental effects. These conditions are designed to address stormwater management and discharge, tree protection, grading regulations, parking regulations, National Pollutant Discharge

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Elimination System (NPDES) permit requirements, historic/landmark status, California Building Code, and Uniform Fire Code, among others.

As applicable, the required conditions of approval for an individual project are adopted if/when it is approved by the City regardless of the determination of the environmental impacts of a project. These conditions of approval are designed to avoid or substantially reduce identified impacts.

In reviewing project applications, the City determines which conditions of approval apply based on the zoning district, community plan, and the type of permits and approvals required for the Project. Because these conditions of approval are mandatory City requirements imposed on a citywide basis, environmental analyses presume that these conditions will be imposed upon and implemented by the Project, and are not imposed as mitigation measures under CEQA. All Design Guidelines applicable to the Project will be applied as conditions of approval issued to the Developer.

In addition to the usual Site Development Permit (SDP) process of reviewing projects for conformance with the City's General Plan and Zoning Ordinance, projects shall have to demonstrate compliance with the Specific Plan, including the Development Standards and Design Guidelines (see Appendix A, which lists the policies, guidelines, and design standards applicable to the proposed Project). No SDP approval shall be issued by the City without the decision-making body making the following finding: "The proposed project conforms to the intent and the specific requirements of the MMSP, including the Development Standards and Design Guidelines."<sup>3</sup>

## **Project Approvals Required**

### Actions by the City of Milpitas

#### *Environmental Assessment*

The City has indicated that it intends to use the streamlining provisions of CEQA to the maximum feasible extent so that future environmental review of specific private development projects and public improvement projects carried out in furtherance of the MMSP (such as the Project) are expeditiously undertaken, without the need for repetition and redundancy. To the extent possible, the City intends to rely on the MMSP EIR and this CEQA Checklist for the Project's environmental review.

The CEQA Checklist below reviews the Project against the Plan buildout analyzed in the MMSP EIR to determine if the MMSP EIR is adequate for environmental clearance of the Project, if any additional work may be required, and if there is anything unique about the Project and/or its location that would warrant further environmental review. Based on the conclusions of the CEQA Checklist, none of these conditions is present and no further CEQA review of the Project is required.

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<sup>3</sup> Milpitas Midtown Specific Plan, p. 8-4

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### *Specific Plan Amendment*

The proposed Project is the first redevelopment project within the set of parcels around Serra Way and Main Street that are identified in Policy 7.4 of the MMSP as a Precise Plan Area (PPA). Policy 7.4 requires the preparation of a coordinated development plan (Precise Plan) for the entire area when development is proposed on any of the sites.

The intent of this policy is to coordinate development over several parcels, so that each individual development contributes to a coherent overall site plan for a larger area. Concurrent with approval of the 260 S. Main Street project, City Planning staff is seeking to amend Policy 7.4 of the MMSP, so that when a project developer located in any of the areas shown in Figure 7.1 of the MMSP approaches the City regarding future development, a Precise Plan for the project site (not the entire PPA) will be required. Issues to be addressed at the Precise Plan level include: coordination of circulation and access; placement and configuration of parking; and building orientation. Opportunities for coordinating parcel access (i.e., sharing driveways and minimizing curbcuts) are a key issue along Main Street.

Therefore, with this amendment to the Specific Plan, the Applicant would be required to prepare a Precise Plan for the 260 S. Main Street project (which consists of four parcels), but not for the whole Precise Plan Area (the Applicant's Precise Plan for the Project site is included in Appendix F).

### *Subsequent Approvals*

A number of City permits and approvals would be required before Project development could proceed. As Lead Agency, the City of Milpitas would be responsible for most of the approvals required for development. A list of required discretionary approvals that are expected to be required by the City for the Project includes:

- Tentative Parcel Map to merge four (4) parcels into one lot
- Site Development Permit, pursuant to Section XI-10-57.03 of the Milpitas Planning Code
- Grading permit
- Building permit

### *Actions by Other Agencies*

Other public agencies' approval and authorization will or may be required to implement the Project. These agencies and their approvals include:

- East Bay Municipal Utilities District (EBMUD) – Granting new water service connections and meters.
- Regional Water Quality Control Board (RWQCB) – Waste Discharge Requirements or NPDES permit.

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## CEQA Findings

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR as included in the CEQA Checklist below for the Project, the MMSP EIR fully and adequately analyzed and covered the potential environmental impacts associated with the proposed Project. Therefore, in accordance with CEQA Guidelines Sections 15162 and 15168, the proposed Project does not require further CEQA review because the following finding can be made:

- **Use of a Program EIR with Later Activities:** CEQA Guidelines Section 15168 (Program EIRs) provides that the 2002 MMSP EIR can be used as a Program EIR in support of streamlining and/or tiering provisions under CEQA. Section 15168 (a) defines the “program EIR” as one prepared on a series of actions that can be characterized as one large project and are related geographically and by other shared characteristics. Section 15168 (c) states that “subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.” If the agency finds that, pursuant to CEQA Guidelines Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR and no new environmental document would be required.

As demonstrated in the CEQA Checklist in this document, the Project will not cause new effects or require new mitigation measures not presented in the MMSP EIR. The analysis in the MMSP EIR and in this CEQA Analysis demonstrates that the Project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR, per CEQA Guidelines Section 15162, because the level of development proposed for the site is within the broader development assumptions analyzed in the Program EIR. The effects of the proposed project were addressed in that EIR and no further environmental documents are required in accordance with CEQA Guidelines Sections CEQA Guidelines Section 15168.

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Bradley Misner  
Director of Planning and Neighborhood Services, City of Milpitas  
November 2, 2016

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Date

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## CEQA Checklist

This CEQA Checklist provides a summary of the potential for new or more severe environmental impacts that may result from implementation of the Project, as compared to impacts identified in the MMSP EIR. Potential environmental impacts of development under the MMSP were analyzed and covered by the MMSP EIR, and the MMSP EIR identified mitigation measures and specific policies to address these potential environmental impacts.

This CEQA Checklist hereby incorporates by reference the MMSP EIR discussion and analysis of all potential environmental impact topics. Environmental topics that could have a potential project-level environmental impact are included. The MMSP EIR's significance criteria have been consolidated and abbreviated in certain portions of this CEQA Checklist for administrative purposes; a complete list of the significance criteria can be found in the MMSP EIR.

This CEQA Checklist provides a determination of whether the proposed project would result in a(n):

- Equal or Less Severity of Impact as Previously Identified in the MMSP EIR
- Substantial Increase in Severity of Previously Identified Significant Impact in MMSP EIR
- New Significant Impact

Checkboxes are used to convey which of the above conclusions applies for each potential impact. If the box labeled "Substantial Increase in Severity of Previously Identified Significant Impact", or "New Significant Impact" is checked, it indicates that the Project would have impacts that are:

- Not identified in the previous MMSP EIR (per CEQA Guidelines Sections 15162 and 15168), including off-site or cumulative impacts (per CEQA Guidelines Sections 15162 and 15168);
- Due to substantial new information not known at the time the MMSP EIR was certified (per CEQA Guidelines Sections 15162 and 15168 ).

The proposed Project is required to comply with City of Milpitas policies and mitigation measures identified in the MMSP EIR where applicable. This CEQA Checklist includes references to the applicable policies and mitigation measures. If the CEQA Checklist inaccurately identifies or fails to list a policy or a mitigation measure, the applicability of that policy or mitigation measure to the proposed Project is not affected.

## 1. Air Quality

Would the Project:	Equal or Less Severity of Impact Identified in Previous CEQA Document	Substantial Increase in Severity of Impact Identified in Previous CEQA Document	New Significant Impact
Conflict with or obstruct implementation of the applicable air quality plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Expose sensitive receptors to substantial levels of pollutant concentrations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Impacts

#### *Conflict with Air Quality Plan*

BAAQMD recommends analyzing a project's consistency with current air quality plan control measures. The impact would be significant if the Project would conflict with or obstruct implementation of the regional air quality plan, in this case, the 2010 Clean Air Plan.

Many of the Clean Air Plan's control measures are targeted to area-wide improvements, large stationary source reductions, or large employers and these are not applicable to the proposed Project. However, the Project would be consistent with applicable control measures aimed at improving access/connectivity for bicycles and pedestrians (see Appendix A, which would satisfy Transportation Control Measures D-1 and D-2 from the Clean Air Plan<sup>4</sup>) and would meet current standards of energy efficiency.

Therefore, there would be no impact in relation to inconsistency with the Clean Air Plan.

<sup>4</sup> Clean Air Plan 2010, Table 4-3. Accessed <http://www.baaqmd.gov/~media/files/planning-and-research/plans/2010-clean-air-plan/cap-volume-i-appendices.pdf?la=en>. July 26, 2016.

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### *Construction*

Construction activities would generate emissions and dust (including particulate matter and small particulate matter, PM<sub>10</sub> and PM<sub>2.5</sub>, ozone precursors, and toxic air contaminants) from the operation of construction machinery, construction worker automobile trips, and the release of fugitive dust from vehicle movement over paved and unpaved surfaces, demolition, excavation, earth movement, grading, and wind erosion from exposed surfaces.

The MMSP EIR analyzed air quality impacts using BAAQMD's 1996 CEQA Guidelines. It found that emissions produced during clearing, grading, and general construction activities could have potentially significant impacts to air quality, especially nearby sensitive receptors. It recommended mitigation to less than significant through the implementation of BAAQMD's PM<sub>10</sub> construction control measures, as listed in the EIR. Since publication of the MMSP EIR, BAAQMD has published screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts from construction activities (BAAQMD 2011). BAAQMD recommends implementation of basic construction measures addressing dust-control and general emissions for all projects, regardless of whether a project exceeds threshold levels. These basic construction measures are imposed through implementation of required City of Milpitas development policies and regulations, as detailed in Appendix A.

### *Operation*

Implementation of the Specific Plan would result in long-term contribution to regional criteria air pollutant levels.

Emissions from motor vehicle operation are anticipated to represent the greatest long-term contributor of air pollutants associated with development of the proposed Project. Operational activities associated with the proposed land uses would also result in additional dispersed and intermittent sources of pollutants, primarily associated with the use of space and water heaters, household solvents and paints, and landscape maintenance equipment.

Based on the modeling of these emissions, the EIR concluded that the estimated increases in regional emissions would exceed BAAQMD's annual significance thresholds for criteria pollutants. It found that, although the Plan includes a mixture of land uses that supports major transit facilities, locates higher density development around hubs and commercial centers, provides for the continuation of pedestrian-oriented retail development, and provides pedestrian connections between the transit stations and important destinations, these policies would not reduce criteria air pollutant impacts to below significance, concluding that this would constitute significant but unavoidable air quality impacts.

### *Carbon Monoxide*

The MMSP EIR found that due to the low background CO levels, limited increase in traffic volumes, and minor congestion, the California and federal 1-hour and 8-hour CO standards would not be exceeded at any intersection under Plan buildout. No mitigation measure is required for this less than significant impact.

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## Project Impacts

### *Conflict with Air Quality Plan*

With the implementation of Specific Plan policies listed in Appendix A, the Project would meet current standards of energy efficiency and does not conflict with applicable control measures aimed at improving access/connectivity for bicycles and pedestrians. Therefore, it is not in conflict with the Clean Air Plan 2010.

### *Construction*

Project construction activities include site preparation and earthmoving that will generate short-term emissions of fugitive dust. The Project will be required to implement effective and comprehensive dust control measures intended to be protective of the health of nearby residences, and that reduce dust emissions that could affect regional air quality through required implementation of BAAQMD's Basic Construction Mitigation Measures, detailed in its CEQA Air Quality Guidelines.

In addition, Project construction activities will generate short-term emissions of criteria pollutants. However, at a size of 25 residential units, the Project would not exceed the screening level sizes indicated in Table 3-1 of the BAAQMD CEQA Guidelines (> 240 dwelling units), and thus its emissions of construction-period criteria pollutants would be less than significant. The Project will be subject to basic construction control measures through implementation of BAAQMD Construction Mitigation Measures. These basic construction measures are imposed through implementation of required City of Milpitas development policies and regulations, as detailed in Appendix A, and will further reduce construction-period criteria pollutant emissions.

### *Operational Emissions*

At a size of 25 residential units, the Project does not exceed the screening level sizes indicated in Table 3-1 of the BAAQMD CEQA Guidelines (> 451 dwelling units and > 99,000 sf of retail), and thus its emissions of operational criteria pollutants would be less than significant.

### *Carbon Monoxide*

The BAAQMD Guidelines indicate that a project would result in a less than significant impact to localized CO concentrations if the Project is consistent with an applicable congestion management program (CMP), if project-generated traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour, and if the Project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited. The Project does not present any inconsistencies with the applicable CMP, does not generate substantial traffic that would exceed any of the applicable CO threshold criteria, and would not result in a significant impact pertaining to CO emissions.

### *Toxic Air Contaminants*

As a residential and retail project, the Project would not be a source of substantial toxic air contaminants (TACs) during the operational period. The Project would not require earth moving or other preparation that would result in higher than anticipated emissions during the construction period, and

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potential temporary construction-related TAC emissions from fuel-combusting construction equipment (primarily diesel particulate matter) would be reduced through implementation of BAAQMD's Construction Measures. The Project's impact related to TACs would be within that anticipated under the MMSP EIR and would not be significant.

In a recent California Supreme Court case, *California Building Industry Association v Bay Area Air Quality Management District* (Case No. S213478, December 17, 2015), the Court ruled that "agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents." However, because comments submitted in response to previous housing proposals in the City have raised the issue of projects potentially exposing residents to toxic air contaminants, the issue is discussed here as an informational item.

The rear boundary of the Project site is ~30 feet from the railroad tracks of the Union Pacific Railroad Warm Springs Subdivision Main Line. Trains pass by from 1-4 times per day, posing a non-zero risk of exposure to diesel emissions.

In January, 2016, BAAQMD issued a draft report titled "Planning Healthy Places", which states in part,

Studies conducted in California (Bhangar et al 2011, Less et al., 2015) have shown that particulate levels in homes with high efficiency filtration systems were 50% to 74% lower than those without filtration systems. Modeling simulations (Brown et al 2014) showed similar findings. The effectiveness of air filters in reducing health risks depends heavily on properly sealed ducting and maintenance. Higher MERV rated filters also require increased air pressure, which requires more energy use and can cause ducts to fail if not properly installed and sealed. An ongoing maintenance plan for a building's HVAC air filtration system should therefore be included in any air filtration best practice adopted by a local government (BAAQMD 2016).

In addition, the report states, "The Air District recommends requiring the installation and implementation of an air filtration system in sensitive land uses (minimum of MERV 13) along with a maintenance plan detailing how the filtration system will be maintained."

The City endeavors to reduce any potential health risks from toxic air contaminants due to the proximity of train trips by requiring that new residential projects along S. Main St. within the Milpitas Midtown Plan Area include the use of high efficiency filters, at the efficiency rating of MERV-13, in HVAC systems serving a Project site. This incorporates the recommendation from BAAQMD that these filters can reduce the health risk of carcinogenic and non-carcinogenic health effects to acceptable levels<sup>5</sup>. The Applicant at 260 S. Main St. has agreed to install MERV-13-rated filters in the residential units, which in the City's view satisfies the level of protection from health risk desired without the necessity of conducting a site-specific study of the exposure levels and attendant risk at the site.

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<sup>5</sup> In its approval of the mixed use McCandless Project at 1315-1600 McCandless (February 22, 2012), the City required similar mitigation to bring the potential impacts of TAC emissions below significance (Milpitas 2012).

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## Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project will not substantially increase the severity of construction-period emissions as identified in the MMSP EIR, or result in new significant impacts related to construction-period emissions that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. With implementation of BAAQMD Basic Construction Mitigation Measures, the potential impacts related to construction period emissions would be less than significant. There were no further mitigation measures in the MMSP EIR pertaining to construction-period emissions that would apply to the Project.

## **2. Greenhouse Gas Emissions and Climate Change**

\*The MMSP EIR did not specifically address greenhouse gas emissions, but for the reasons spelled out below, greenhouse gas impacts would not be significant.

Would the Project*:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Impact Previously Identified in Previous CEQA Documents	New Significant Impact
Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Specific Plan Analysis

While the 2001 MMSP EIR did not explicitly analyze Greenhouse Gas (GHG) emissions, the level of GHG emissions is increased along with air quality emissions and are largely driven by the amount of vehicle travel.

Implementation of the Specific Plan is projected to result in a substantial increase in total Vehicle Miles Traveled (VMT), based on the population and housing increases projected in the EIR. The EIR notes that proposed changes in land use designations that allow for this additional growth also encourage new development in proximity to transit stations and employment centers, thereby potentially reducing the travel distance of future residents to employment and other areas. Therefore, the rate of increase in VMT is expected to be less than the rate of increase in population. This is due to the mixed-use and transit-oriented nature of development proposed under the Specific Plan: though the population would

increase significantly, a large percentage of that population would use transit options made available to them and reduce vehicle use.

Policies contained within the Land Use Element of the Specific Plan, as well as the Milpitas General Plan, provide for a land use mix that supports higher density development focused around future transit stations. A list of General and Specific Plan policies that would reduce the impacts of the Plan on greenhouse gas emissions is provided in Appendix A.

### Project Impacts

Projects that do not exceed screening level criteria developed by BAAQMD do not need to prepare project-specific GHG emissions forecasts, and are assumed to result in less than significant GHG emissions. The applicable screening levels for operational greenhouse gas emissions for a general condominium are 78 dwelling units and 19,000 sf for retail. Since the Project includes 25 units and 2000 sf of retail, no modeling of emissions is required, because greenhouse gas emissions are assumed within the BAAQMD guidelines to be less than significant.

Further, the Project would comply with the policies identified above in the MMSP EIR to minimize impacts of greenhouse gas emissions.

### Conclusions

The MMSP EIR did not specifically discuss greenhouse gas emissions, but it discussed general air emissions, under which carbon dioxide and other greenhouse gases can be grouped. The Project is consistent with the policies contained within the Land Use Element of the Specific Plan, as well as the Milpitas General Plan, which provide for a land use mix that supports higher density development focused around future transit stations. There is nothing unique or peculiar about the Project that would warrant further environmental review. The Project’s impacts related to GHG emissions would be less than significant. No mitigation measures were identified in the MMSP EIR related to GHG emissions that would apply to the Project.

## **3. Biological Resources**

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Impact Previously Identified in Previous CEQA Documents	Significant Impact in Previous CEQA Documents	New Significant Impact
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 Wildlife or U.S. Fish and Wildlife	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Service;			
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 Wildlife or U.S. Fish and Wildlife Service;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have a substantial adverse effect on federally protected wetlands (as defined by section 404 of the Clean Water Act) or state protected wetlands, through direct removal, filling, hydrological interruption, or other means;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fundamentally conflict with an adopted habitat conservation plan, natural community conservation plan, or other approved local regional, or State habitat conservation plan;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fundamentally conflict with the any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Analysis

The Milpitas Midtown Plan encompasses existing developed areas. There are no identified sensitive habitats, and records of special status species occurring in the area were historic, with species except the burrowing owl believed extirpated. Nesting habitat for non-listed special-status raptor species occurs on and near the Planning Area. Proposed development in the Planning Area would result in the removal of landscaping and disturbance to habitat, which could affect wildlife including burrowing owl, nesting birds and common wildlife species.

New development on lands envisioned by the Specific Plan may remove habitat for non-sensitive plant and wildlife species (those not considered sensitive by the resource agencies), which could reduce or eliminate the local populations of some common plants and animals in the Planning Area. Some affected animals would relocate to similar habitats in the general vicinity of the planning area. This loss of vegetation and individual animals would not substantially reduce the regional or statewide populations of any of these plant or wildlife species and would therefore not be considered a significant environmental impact. No mitigation is required for this less-than-significant impact.

Implementation of the Specific Plan could result in the loss or disturbance of active raptor nests. Breeding and nesting raptors could be negatively affected by the removal of large trees (generally, 20'

tall or more) or nearby construction activity during the breeding season. City of Milpitas policies that ensure impacts are less than significant are listed in Appendix A.

Project Impacts

The Project site is a previously developed lot and is within an urbanized area. There are no natural features, wetlands, riparian habitat or sensitive natural communities on the site. The site is not within an area covered by a habitat conservation plan (HCP) or natural community conservation plan. The closest area covered by an HCP is the Santa Clara Valley HCP, but that plan does not include downtown Milpitas or the Project site.

There are ten existing trees on-site and an eleventh tree adjacent to (and potentially affected by) the Project. Eight of the ten on-site trees are proposed to be removed. Two Canary Island date palms will be saved on-site, and an Italian Cypress adjacent to the Project site is proposed to be saved. The Tree and Planting Ordinance of the City of Milpitas (X-2-7.01-1) protects trees greater than 37” circumference at 4 ½ feet from the ground on a developed site, throughout the city. Four of the trees proposed for removal meet this criterion (tree #242, 244, 247, and 249). 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).

The Project could result in loss or disturbance of active raptor nests. Implementation of the mitigation measures identified in the MMSP EIR (raptor nest surveys where construction is proposed during raptor-nesting season, then restrictions on construction around fledging young) would reduce potential impacts to less than significant.

Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not have substantially increased adverse effects, either directly or indirectly, on sensitive biological resources as identified in the MMSP EIR, nor would it result in any new significant biological resource impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. The site has no value as habitat for endangered, rare, or threatened species. There were no other mitigation measures in the MMSP EIR (in addition to that above) pertaining to biological resources that would apply to the Project.

**4. Historic Resources**

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Cause a substantial adverse change in the significance of an historical resource as defined	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

in CEQA Guidelines section 15064.5;			
Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines section 15064.5;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disturb any human remains, including those interred outside of formal cemeteries	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Analysis

The MMSP EIR identifies five historic sites within the Midtown Plan Area that are on the Milpitas Register of Cultural Resources, including the Caudillo House at 280 S. Main Street, adjacent to the Project site. This house, built in 1899, is a locally rare example of a Queen Anne-style building. In 1999 the house was raised and a ground floor built under it for commercial offices.

However, the Milpitas Cultural Resources Register does not include this property (although it does contain the others identified in the EIR).<sup>6</sup> In any event, the MMSP does not propose any development or redevelopment activities for any of these properties identified as historic. Rather, the Specific Plan Main Street Mixed-Use Design Guidelines are intended to facilitate the late 19<sup>th</sup>-century and early 20<sup>th</sup>-century architectural character of the Main Street area. Policy 5.7 of the Specific Plan “[E]ncourage[s] the rehabilitation and adaptive re-use of designated buildings or features”, and the Plan names the Caudillo House as one such building. Other Specific Plan policies that would reduce potential impacts to historic sites are listed in Appendix A.

The MMSP EIR imposed the following mitigation requirement to mitigate potential impacts on historic structures to less than significant:

If removal or modification of any potentially significant resource is proposed and is not consistent with [the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstruction Historic Buildings], the resource shall be evaluated for its integrity and structural values pursuant to the California Register criteria by a licensed architect specialized in historic buildings. This shall occur prior to the approval of any proposed modification or demolition.

In addition, current federal, state and local laws as well as the policies summarized below reduce potential impacts on historic resources to less than significant levels.

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

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<sup>6</sup> The Cultural Resources Register is available at [http://www.ci.milpitas.ca.gov/\\_pdfs/plan\\_cultural\\_resources.pdf](http://www.ci.milpitas.ca.gov/_pdfs/plan_cultural_resources.pdf). The identical list of cultural resources is given in the General Plan, p. 4-17.

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necessary, develop appropriate treatment measures in consultation with Santa Clara County and other appropriate agencies and interested parties.

All future development in the Planning 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).

The University of California Museum of Paleontology lists eight fossil findings documented to be in Milpitas, and others can be assumed<sup>7</sup>. The localities document various Mammalia. Pleistocene alluvium (deposited sediments) is considered sensitive for vertebrate fossils, which are considered a significant paleontological resource. As such, there is the potential to encounter unidentified fossils during construction of new development. Since fossils are considered to be nonrenewable resources, such impacts would be considered significant. Adverse impacts on paleontological resources could occur when earthwork activities such as mass excavation cut into geological formations, or depths below the soil layer, which is generally six feet deep. These impacts are in the form of physical destruction of fossil remains. Project-specific evaluation, monitoring during construction (as required in Policy 5.23 of the Transit Area Specific Plan), and possible fossil recovery in the event fossils are discovered, would reduce the potential of adverse impacts to paleontological resources.

### Project Impacts

The adjacent Caudillo House, while not on the Cultural Resources Register, is identified by name in the Midtown Specific Plan for preservation. Given that (a) the Project site has had both commercial and residential land uses for over 50 years, and (b) the adjacent historic structure was raised and its stability reinforced in a 1999 renovation, construction activities or operation of the Project site would not cause adverse impacts to the property. Because the area is not included in a historic district and development that surrounds the site is already of a different period, the Project would not substantially alter the historic context of the property.

Should any archeological resources, human remains or paleontological resources be discovered during construction, the Project will follow current federal, state, and local laws as well as the policies mentioned in Appendix A to reduce any potential impacts to less than significant.

### Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of impacts to historic resources as identified in the MMSP EIR; and would not result in a new significant impact to historic resources that was not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. Impacts related to historic resources would be less than significant. No other mitigation measures would be required beyond those identified in the MMSP.

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<sup>7</sup> University of California Museum of Paleontology Website: <http://ucmpdb.berkeley.edu/>. Accessed 8-17-2016.

## 5. Geology and Soils

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Expose people or structures to substantial risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse, or landslides?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in substantial soil erosion or loss of topsoil, creating substantial risks to life, property, or creeks/waterways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Be located on expansive soil, as defined in section 1802.3.2 of the California Building Code (2007, as it may be revised), creating substantial risks to life or property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Analysis

The Midtown Planning area is within a region dominated by active faults. The San Francisco Bay area is an area of active seismicity that includes several large right lateral strike-slip faults, including the San Andreas, Hayward, Calaveras, and Sea Cove-San Gregorio faults. Numerous historic earthquakes have occurred within this region causing strong seismic shaking throughout much of the San Francisco Bay area. Therefore, seismic-related ground shaking is an unavoidable hazard in the San Francisco Bay Area.

Ground shaking generated during an earthquake could result in structural damage to project components and project-related infrastructure. Structures and associated infrastructure proposed under the Milpitas MMSP would likely experience at least one major earthquake (greater than Richter magnitude 6.7) during their functional lifetime. The degree of hazard depends on the geologic condition of the site, construction materials, and construction quality. The intensity of such an event would depend on the causative fault and the distance to the epicenter, the moment magnitude, and the duration of shaking. Redevelopment projects in the planning area may also be susceptible to secondary seismic hazards such as liquefaction. Alluvial deposits in the Project Area may contain localized sand and

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silt lenses that are potentially liquefiable. Liquefaction can result in damage to underground utilities, shallow foundations, and paved areas.

In accordance with City Code, building permit applications for subdivisions must be accompanied by a preliminary soils report that indicates the presence of soil problems which, if not corrected, could lead to structural defects and include recommended corrective actions to prevent structural damage where such soil problems, such as liquefaction, exist. Also, the Seismic Hazards Mapping Act requires that before a development permit is granted for a site within a seismic hazard zone, a geotechnical investigation of the site has to be conducted and appropriate mitigation measures incorporated. Recommendations included in the preliminary soils report and geotechnical investigation would help to reduce potential liquefaction hazards to less than significant levels.

*General Plan Policy that Reduces the Impact of Seismic Hazards*

Seismic hazards such as ground shaking and liquefaction are further addressed in the City of Milpitas General Plan as follows:

- 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.

Soils underlying the entire planning area have moderate to high shrink/swell potential. This condition occurs when expansive clay soils undergo alternate cycles of wetting (swelling) and drying (shrinking). During these cycles, the volume of the soil changes substantially. These soils present the potential for adverse effects on structures and other improvements if not properly addressed in design and construction of improvements: In addition, fill material with unknown geotechnical properties may be present within the planning area on a site-by-site basis. It is not possible to determine the exact location of potential fills without individual site investigation, and potential for fill areas cannot be confined to a particular location within Midtown. If not properly engineered, the fill may have low bearing strength and may be compressible. Compression or consolidation of the fill may result in settlement of foundations, pavements, or utilities. Structural damage, warping, and cracking of roads and sidewalks could occur if the potential expansive soils are not considered during design and construction of improvements.

In addition, the high water table present in the Midtown area could affect the structural integrity of planned improvements and adjacent structures if not properly addressed through engineering practices during the construction process.

Construction activities are likely to include demolition of existing structures, the stripping of surface vegetation, grading, excavation of soils, and possibly the placement of imported engineered soils. Existing impervious surfaces and established ground cover that serves to stabilize site soils would be removed during construction, potentially exposing soils to the erosional forces of wind, rain, and runoff.

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Mandatory compliance with the City of Milpitas policy identified above would reduce impacts to geologic hazards, such as expansive soils, differential settlement, and erosion to less than significant levels.

### Project Impacts

The site is located within the Coast Range geomorphic province at the northern extent of the Santa Clara Valley and the southern portion of San Francisco Bay. The site is relatively flat with a slight slope from the easterly portion of the site to the westerly portion with elevations ranging from approximately 21 feet to 19 feet respectively. The National Resource Conservation Service (“NRCS”) website describes the soil as Hydrologic Soil Group C, underlain by silty clay loam with occasional thin sandy lenses, with a groundwater depth greater than 80 inches.

These sandy lenses comprise the A-level aquifer. Clayey to silty sands comprising the B-level aquifer underlie the near-surface clay section. The hydrogeologic data from monitoring wells indicated northwesterly flow of the groundwater in both the A- and B-level aquifers (RWQCB 2007).

The Project site would be subject to strong seismic groundshaking in the event of an earthquake. Structures in the City of Milpitas are designated Seismic Design Category D in the International Code Council classification system (Milpitas, 2016b). This designation corresponds to buildings and structures in areas expected to experience severe and destructive ground shaking but not located close to a major fault. USGS has characterized the risk of liquefaction during an earthquake of 7.8 along the San Andreas fault as between 0-5% (USGS 2016).

The Project is subject to City Policy 5.a-I-3, which requires projects to comply with the guidelines prescribed in the City’s Geotechnical Hazards Evaluation manual. The Project will need to conform to the recommendations of a geotechnical report given specific characteristics of site soils as a general requirement for all construction permits. 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.

### Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of impacts related to geologic or soils hazards as identified in the MMSP EIR, or result in any new significant geology or soils impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. With required implementation of all applicable City of Milpitas policies, as well as compliance with Seismic Hazards Mapping Act, California Building Code, and seismic requirements of the City of Milpitas Building Code, impacts related to geologic and soils hazards would be less than significant. There were no mitigation measures in the MMSP EIR that would apply to the Project.

## 6. Hazards and Hazardous Materials

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emit hazardous emissions or require handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Analysis

The potential presence of contaminated soils in the Midtown planning area is high in many areas. The soils may contain a variety of chemical compounds associated with fuels, oils, solvents, metals, agricultural chemicals, or other hazardous substances originating from historical and/or current land uses. Soils containing naturally occurring asbestos may also be encountered during site development. Contaminated soils encountered during site development activities, such as excavation and grading, could result in potential health risks to construction workers and/or the public.

Known releases of hazardous materials to the subsurface may also have impacted groundwater quality within the Midtown planning area. In addition, chemical compounds present in groundwater may have migrated from their original source area and affected groundwater quality at surrounding properties within the Midtown planning area. If contaminated groundwater were encountered during redevelopment activities, potential health risks to construction workers and/or the public could result. If excavations were to extend to the groundwater table, dewatering could be required. Extracted contaminated groundwater would require on-site management and/or treatment.

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The City's General Plan includes policies to avoid and reduce the impacts from the possible presence of hazardous substances exposed from soil and groundwater disturbance during construction. These policies are included in Appendix A. In addition, the MMSP EIR concluded that implementation of the Specific Plan has the potential to create significant environment impacts related to hazardous materials without implementation of mitigation measures. The MMSP EIR includes Mitigation Measure Haz Mat-1 to reduce such potential impacts to less than significant. It states, "If a significant likelihood of contamination is revealed by the Phase I ESA, a Phase II and/or III assessment may be required, which would involve soil and/or water quality sampling and could result in remediation requirements in accordance with State and federal regulations. Implementation of this measure will ensure that this impact is reduced to a less-than-significant level."<sup>8</sup>

### Project Analysis

A Phase I Environmental Site Assessment (ESA) was conducted on the Project site by Stantec (Appendix F). The previous land use that poses the most potential risk of contamination was its use as an automobile service and repair garage from 1980-2005. During that time, approximately 110 gallons of waste oil and 15-gallons of cleaning solvents were stored along the eastern exterior of the commercial building (260 S. Main Street). Such storage was the subject of several minor violations for waste oil storage and improper labeling of materials during much of that period. However, there were no known releases and no known contamination present at the site. A tow yard was also present between circa 2000 and 2013 in the southeastern portion of the Property along Sinnott Lane.

The Phase I ESA identified three recognized environmental conditions (RECs)<sup>9</sup> and which led to a follow-up Phase II ESA:

1. Given the potential for petroleum and hazardous materials use on the Property during the tenure of the automobile station, the historic use of the Property as an automobile station is considered a REC. Stantec recommends collecting shallow soil and soil vapor samples in the areas of the former oil storage and automobile service department for analysis for total petroleum hydrocarbons (TPH) and volatile organic compounds (VOCs).
2. Railroad tracks are present adjacent to the east of the Property. Herbicides are commonly applied to railroad alignments, and heavy metals associated with herbicidal application are commonly found in these areas. Stantec recommends collecting shallow soil samples along this Property boundary for the analysis of heavy-metals commonly associated with herbicide application.

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<sup>8</sup> Midtown Milpitas Specific Plan Draft EIR, 200, p. 3.3-6.

<sup>9</sup> "Recognized environmental conditions" are defined by ASTM as "the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property". ASTM Standard Practice E 1527-05. <http://www.astm.org/DATABASE.CART/HISTORICAL/E1527-05.htm>.

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3. Given the shallow groundwater in the Property vicinity, there is a potential for a vapor encroachment condition, as defined by ASTM E2600-10, to be present at the Property. Stantec recommends conducting a site-wide soil vapor survey to determine if there are subsurface vapors above regulatory thresholds.

A follow-up Phase II assessment was conducted in September 2015, and an Addendum to the Phase II ESA was prepared in July of 2016 (Stantec, October 2015 and July 2016). These assessments included soil sample and soil vapor testing. No total petroleum hydrocarbons as gasoline or other volatile organic compounds were detected in any of the soil samples analyzed. Stantec concluded that “petroleum hydrocarbons in soil represent neither a recognized environmental condition nor a human health risk in light of the contemplated residential use of the Property and recommends no further investigation regarding this issue.”

In addition, the Phase II investigations determined that benzene, toluene, ethyl-benzene and total xylenes (“BTEX”); methyl tert-butyl ether; 2-Butanone; acetone; styrene; 1,2,4-trimethylbenzene; and 1,3,5-trimethylbenzene were detected at low concentrations in six of the seven soil vapor samples collected. Three of the benzene concentrations exceeded the residential Environmental Screening Level (ESL) of 48 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). None of the other soil vapor concentrations exceeded their corresponding ESLs. As a result of these conclusions, the Applicant has entered the site into Santa Clara County Department of Environmental Health’s Voluntary Cleanup Program. Once the Property is under the County oversight, the County reviews the data collected to date and determines whether the collection of additional data will be necessary to conduct a human health risk assessment (HHRA). Based on the results of the HHRA, a determination can then be made if any remedial action or engineering controls (i.e. vapor barriers) will be required prior to issuing Site closure for residential development. The Remedial Action Agreement between the property owner and the County DEH states that “All Corrective Action activities will follow Corrective Action Requirements under Title 23 of the California Code of Regulations and Regional Water Quality Control Board Guidance Documents.”<sup>10</sup> The Remedial Action Agreement is included here as Appendix E.

The Project will be required to implement all applicable City of Milpitas policies to ensure there are no as-yet-unknown releases of hazardous substances, and to reduce the risks associated with any identified hazardous materials.

Construction activities within the Midtown planning area may involve use and transport of hazardous materials. These materials could include contaminated soil and/or groundwater, building demolition debris containing lead and asbestos, and fuels, oils, and other chemicals used during development. Further, removal, relocation and transportation of hazardous materials at sites during future construction activities could result in accidental releases or spills, potentially posing health risks to workers, the public, and environment. Implementation of construction-period BMPs will minimize the potential adverse effects to groundwater and soils such that the threat of exposure to the public or

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<sup>10</sup> Remedial Action Agreement, January 29, 2016. Signed September 15, 2016.

contamination to soil and groundwater from construction-related hazardous materials would be less than significant.

### Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project will not substantially increase the severity of hazardous material impacts as identified in the MMSP EIR, nor would it result in any new significant impacts related to hazardous materials not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. As noted in the MMSP EIR, the potential presence of contaminated soils in the Midtown planning area is high. With required implementation of City guidelines and policies, Mitigation Measure Haz Mat-1 from the MMSP EIR, and required compliance with federal, state, and local regulations for treatment, remediation, or disposal of contaminated soil or groundwater, impacts related to hazardous materials would be less than significant.

## 7. Hydrology and Water Quality

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Violate any water quality standards or waste discharge requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 proposed uses for which permits have been granted)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substantially alter the existing drainage pattern of the site or area, including through 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Create or contribute substantial runoff that would exceed the capacity of existing or planned stormwater drainage systems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Otherwise substantially degrade water quality?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 that would impede or redirect flood flows?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Expose people or structures to a substantial risk of loss, injury or death involving flooding?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Water Quality / Stormwater Runoff

### Specific Plan Impacts

The proposed development under the Specific Plan would result in small alterations of drainage conditions in the area. The changes would include minor increases in runoff resulting from the development of vacant parcels. Because the Midtown Plan Area is flat to gently sloping, substantial grading for project construction would not be expected, and therefore, substantial alteration of the drainage system in the area is not anticipated. While minor alteration of the storm drain collection systems may result from individual development projects in the Midtown planning area, stormwater discharges would still be directed into the existing storm drain system.

Because the Midtown planning area is largely developed at present, the extent of impermeable surface coverage is high. Development in the Midtown planning area would result in a minor increase in impermeable surface area because some open space areas would be converted to uses for structures and parking areas. Runoff in those areas would increase above existing conditions. The adoption of the Specific Plan and implementation of projects within its framework would be expected to fall within the planned storm drain system requirements for the area as a whole. The Specific Plan also lists specific improvements in the wastewater collection system that would reduce potential impacts to water quality from Plan Buildout (listed in Appendix A).

However, the proposed Specific Plan includes no proposals to alter any of the existing drainage channels. Landscaping and trail development included within the Specific Plan along the edges of the drainage channels would not affect flow capacity or the in-channel configurations and roughness conditions.

The MMSP identifies policies in the Milpitas General Plan that address water-related issues (listed in Appendix A). In addition, Title VIII, Chapter 2 of the Milpitas Sanitary Code prohibits the discharge of any sewage, industrial waste or other polluted waters into any storm drain or natural outlet or channel unless expressly allowed by a valid NPDES permit. As specified in Chapter 16, allowable discharges must not cause any impairment in the beneficial uses or quality of water of the State as defined in the California Water Code or any special requirements of the Regional Water Quality Control Board, or to interfere with the operation of any watercourses with the State (XI-16-5). The City also requires the

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implementation of Best Management Practices (BMPs) provided by the Santa Clara Valley Urban Runoff Prevention Program.

In summary, development in the Midtown planning area would result in minor local alterations of the existing drainage system and minor increases in storm runoff. However, implementation of the proposed Specific Plan would not require substantial alterations to the storm drainage system. In addition, implementation of existing General Plan policies and Municipal Code requirements would help to reduce construction-related water quality impacts to less than significant levels. No mitigation is required for this less-than-significant impact.

### Project Analysis

Grading activity for the Project could result in siltation and downstream sedimentation of stormwater runoff, and construction activities could result in pollutants entering stormwater runoff and downstream receiving waters. As the total area of disturbance of the Project is greater than 1 acre, the Project must obtain coverage under the State Construction General Permit. In addition, because the Project creates more than 10,000 sf of impervious surface, it is subject to Provision C.3 of the Bay Area Municipal Regional Stormwater Permit, which require the use of source control, site design, and stormwater treatment measures to maintain pre-project stormwater runoff volumes.

The Project is exempt from the Hydromodification Management Plan requirements since the Project is located in the "Purple" HM Applicability zone (Catchments draining to exempt channels) per the Santa Clara Valley HM Applicability Map (revised Nov. 2010)<sup>11</sup>.

The operation of the Project will have the potential to introduce pollutants into stormwater runoff that could result in degradation of downstream water quality, but is not expected to contribute a substantial volume of surface runoff volume that would exceed the capacity of existing or planned stormwater drainage systems. None of the creeks that drain the MMSP Area (Lower Penitencia, Ford, Wrigley, and Berryessa drain to Coyote Creek) are on the State's list of impaired waterbodies pursuant to the Clean Water Act, Section 303(d).

There is one proposed stormwater treatment facility for the Project, which is a flow-through planter. The flow-through planter is consistent with the Low Impact Development controls described on Provision C.3 of the Municipal Regional Permit, and represent the most feasible landscape-based controls, given the site constraints imposed by the existing clay soil and high groundwater conditions of the site. The biotreatment cell is located near the southeast boundary of the site, near the guest parking stalls where they can be integrated into the landscape design. The subdrain system will convey the treated flow into a pumping station and ultimately into the public S. Main Street curb and gutter that runs along the westerly Project boundary. Private street runoff will discharge directly into the planter area via curb cuts and sidewalk cross drains. Roof drainage and flatwork runoff will be directed to the planter area through an area drain network (CV 2016).

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<sup>11</sup> Stormwater Control Plan, 260 S. Main St, prepared by C&V Consulting, April 2016.

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As required by the Santa Clara County NPDES permit for stormwater discharges, the Project has prepared a Stormwater Control Plan, which contains BMPs to control both stormwater peak flows and pollutant levels. Landscaping will be designed to minimize required irrigation and runoff, to promote surface infiltration, and to minimize the use of fertilizers and pesticides that can contribute to storm water pollution. Where possible, pest-resistant plants will be selected, especially for locations adjacent to hardscape. Plants will be selected appropriate to site soils, slopes, climate, sun, wind, rain, land use, air movement, ecological consistency, and plant interactions. Along patios and walkways, concrete flatwork will be graded to drain to adjacent area drain inlets and the flow-through planter area where feasible.

Proper operation and maintenance of stormwater management facilities will be the responsibility of the property owner or homeowners association in perpetuity. The property owner or homeowners association will be subject to an annual fee (set by the City's standard fee schedule) to offset the cost of inspecting the site or verifying that stormwater management facilities are being maintained.

With implementation of these City requirements, potential post-construction water quality impacts will be reduced to a level of less than significant.

### Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of water quality and stormwater runoff impacts identified in the MMSP EIR, nor would it result in new significant impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. With required implementation of provisions in the County NPDES permit for stormwater discharges, impacts related to water quality and stormwater runoff would be less than significant. No additional mitigation measures from the MMSP EIR related to water quality would apply to the Project.

Although approximately one-third of the Midtown Planning Area is located within the 100-year floodplain, the Project site itself is located within Area X, defined as areas of 0.2% annual chance of flood or areas of 1% annual chance of flood with average depths of less than 1 square mile. A 0.2% chance of annual flood is equivalent to a 500-year flood. Accordingly, Zone X is not an area of special flood hazard as defined by FEMA.

Therefore, the Project is extremely unlikely to be subject to substantial flooding on- or off-site; will not expose people or structures to a substantial risk of loss, injury or death involving flooding; and will not impede or redirect flood flows. Given the rare occurrence of tsunamis and the emergency alert system enabling evacuation of people, the potential risk to the Project related to tsunami inundation would be low.

The Project would also not 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.

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of hydrology impacts identified in the MMSP

EIR, nor would it result in new significant hydrology impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. Impacts related to hydrology would be less than significant.

## 8. Land Use

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Physically divide an established community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 and actually result in a physical change in the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Impacts

As of 2010, the Midtown Area was composed of approximately 589 acres of land near the western limits of Milpitas, surrounded by residential neighborhoods at the north, and a mix of high and very high density residential, commercial, and industrial uses to the east. Buildout of the Plan would not divide an established community. In fact, the Plan would establish transit centers that create attractive connections to the surrounding urban area. In addition, there are no habitat conservation plans or natural community conservation plans within the Planning Area, therefore the proposed Plan will not conflict with any.

The Specific Plan includes a suite of policies to achieve the land use goals of balanced mixed-use development in the Plan Area (listed in Appendix A). The Specific Plan is fully consistent with each of these policies.

### Project Analysis

The Project site is a previously developed vacant lot in an urbanized area. Implementation of the Project would result in the development of this vacant and previously commercial property for mixed residential and commercial use. Similar to the MMSP, the development of the Project would help improve existing conditions and contribute to the existing community and would not physically divide an established community. The Project would be consistent with the MMSP land use designation.

The MMSP identifies the Project site as being in the Mixed Use District (MXD) area. The Project would improve land use compatibility by redeveloping a vacant site with a new mixed-use residential/commercial development as was envisioned under the MMSP EIR. Thus, the Project's proposed land uses are consistent with the existing land use designation and zoning for this site. The

The issuance of a CUP would bring the Project into conformance with applicable zoning and land use policies of the City Municipal Code. The Project is generally consistent with the applicable land use designation and zoning and the requested design exceptions were included in the analysis of the Project and would not result in environmental impacts beyond those already assumed in applicable plans and regulations for development as allowed.

**Conclusions**

Based on an examination of the proposed land use of the site and its conformance to the Specific Plan, the proposed land use is fully consistent with the Specific Plan and there would be no impacts to land uses that require mitigation.

**9. Noise**

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Specific Plan Impacts**

*Construction Noise*

Impacts from the implementation of the proposed Specific Plan would result in temporary and periodic construction impacts as well as long-term operational impacts from the increase in roadside noise levels

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and the exposure of sensitive receptors to noise levels above the standards. With implementation of the Specific Plan, new noise-sensitive receptors (e.g., in residential dwellings) would be introduced to the Midtown Planning Area. Residential and retail development would be constructed along Main Street, and higher density residential areas around the two light rail stations.

Acoustic modeling done for the MMSP EIR projected the estimated increase in noise levels from Plan buildout to be less than 3 dBA for each of the modeled roadway segments. Noise increases less than 3 dBA<sup>12</sup> would not be a noticeable increase in ambient noise levels.

Depending on the specific construction activities being performed, the time and duration of construction, and distance to these receptors, construction-generated noise could result in speech interference for occupants of these newly developed land uses. Excessive noise levels occurring during the evening and nighttime hours can result in sleep disruption and would have the greatest impact and annoyance to these noise-sensitive receptors. However, the City of Milpitas Municipal Code restricts construction activities to the hours between 7:00 am to 7:00pm, Monday through Friday. This restriction would ensure that sleep disruption would generally not occur, and that annoyance related to construction activities would be minimized. Thus, this potential impact is considered less-than-significant.

There are several policies in the Milpitas General Plan that would reduce potential traffic-related noise impacts. These are listed in Appendix A. Specifically, Policy 6-I-2 requires an acoustical analysis for projects located within a "conditionally acceptable" or "normally unacceptable" exterior noise exposure area, and the implementation of measures to reduce noise levels, if warranted. Such an analysis is also required by Title 24 of the California Code of Regulations, which requires the preparation of an acoustical analysis for multi-family residences that demonstrates how interior noise levels will achieve a 45 dBA DNL (day/night noise level), where the exterior noise levels exceed 60 dBA DNL. A Title 24 analysis would be prepared as part of the final design of any multi-family development proposed in the Specific Plan area. Noise control measures would be designed according to the type of building construction and specified sound rating for each building element. These measures could include, but are not limited to:

- Construction of walls with resilient channels, staggered studs, or double-stud walls
- Dual glazed windows with laminated glass and a 2 1/2 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.

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<sup>12</sup> The decibel measure of the sound level utilizing the "A" weighted network of a sound level meter is referred to as "dBA". The "A" weighting is the accepted standard weighting system used when noise is measured and recorded for the purpose of determining total noise levels and conducting statistical analyses of the environment so that the output correlates well with the response of the human ear. See Noise Study, Appendix B.

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Implementation of Title 24 of the California Code of Regulations would ensure that the proposed residential uses in the Midtown Planning Area would not be exposed to an incompatible noise environment. No mitigation is required for this less-than-significant impact.

### Project Analysis

Construction of the Project will generate noise from activities such as site grading, foundation work, framing, and construction of the new building. The Project will not include any pile driving or other extreme noise-generating construction activities. In addition, new residents will be anywhere from 50-170 feet from an active rail line.

Because of the Project site's proximity to the Union Pacific Railroad Warm Springs Subdivision Main Line (UPRR), whose tracks are 30 feet from the eastern boundary of the property), a Noise and Vibration Assessment study was conducted for the Project Developer by Edward L. Pack and Associates in 2016 (Pack 2016) (Appendix B). The Noise Element of the City's General Plan includes specific noise thresholds (discussed below) that trigger such a study for new residential development.

### ***Noise & Vibration Study Methodology***

To determine the existing noise environment at the site, continuous recordings of the sound levels were made at three locations, as shown on Figure 5. Location 1 was 45 ft. from the centerline of S. Main Street. This location was chosen for security of the sound measuring instrument. Location 2 was 42 ft. from the centerline of the tracks corresponding to the planned minimum setback of the buildings from the railroad. Location 3 was 10 ft. from the property line along Sinnott Lane directly across from the auto service bays at Acclaim Auto Repair. The measurements at Locations 1 and 2 were made for continuous 48-hour periods at each location on April 15-18, 2016, and included representative hours during the daytime and nighttime periods. The measurements at Location 3 were made on April 18, 2016 from 11:00 AM to 3:00 PM.

Trains passed by 3-4 times a day: at 7:00 AM, 9:00 AM and 6:00 PM hours on the first day and 7:00 AM, 10:00 AM, 2:00 PM and 12:00 AM hours on Day 2.

### ***Results***

The noise assessment results presented in the findings were evaluated against the standards of the City of Milpitas Noise Element of the General Plan, which utilizes the Day-Night Level (DNL) descriptor. The standards specify a limit of 65 decibels (dB) DNL at multi-family common areas, such as the courtyards and large decks.

California Code of Regulations Title 24 states: "Residential structures to be located where the annual Ldn ["DNL"] exceeds 60 db shall require an acoustical analysis showing that the proposed design will achieve prescribed allowable interior levels."<sup>13</sup> The prescribed level for interior living spaces is 45 dB DNL. The Title 24 standards also specify minimum sound insulation ratings for common partitions separating different dwelling units and dwelling units from interior common spaces.

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<sup>13</sup> Title 24, Part 2, Vol. 1, 2010 California Building Code, Section 1207.11.3.

Figure 5. Noise Measurement Locations—260 S. Main St.



Source: Edward L. Pack & Associates

### *Exterior Noise Exposure*

The Noise Element of the City’s General Plan establishes that “Normally Acceptable” noise limit for multi-family land use is 65 dB DNL. Exterior noise levels up to 70 dB DNL are “Conditionally Acceptable”, requiring noise insulation features to be included in the design. The results of the exterior noise calculations indicate that:

- The existing exterior noise exposure at the most impacted planned building setback from S. Main Street, 37 ft. from the centerline of the road, is 65 dB DNL. Under future traffic conditions, the noise exposure is estimated to increase to 66 dB DNL. Thus, the noise exposures would be Conditionally Acceptable, up to 1 dB in excess of the General Plan criterion. However, the Project does not include common living spaces to which it applies this General Plan limit.<sup>14</sup>
- The existing exterior noise exposures at the most impacted building setback from the UPRR tracks, 42 ft. from the centerline of the tracks, were 60 and 61 dB DNL on the two days of measurements. Under future conditions, the noise exposures are estimated to remain at up

<sup>14</sup> Personal communication via email with Bhavani Potharaju, City Planner, dated 8/31/2016, stating that the City does not private balconies in residences above ground floor as common spaces, and therefore will not apply the exterior noise threshold to the Project.

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to 61 dB DNL. Thus, the noise exposures are within the City's General Plan Normally Acceptable range.

#### *Interior Noise Exposure*

The Noise Element of the City's General Plan and Title 24 of the California Code of Regulations both establish that interior noise exposures in all residences are limited to 45 dB DNL.

To evaluate the interior noise exposures in project living spaces, a 15 dB reduction was applied to the exterior noise exposure to represent the attenuation provided by the building shell under *annual-average* conditions. The *annual-average* condition assumes that windows have standard dual-pane thermal insulating glass and are kept open up to 50 % of the time for natural ventilation.

Results from the interior noise analysis showed that:

- The interior noise exposures at the most impacted planned living spaces closest to S. Main Street will be up to 50 and 51 dB DNL under existing and future conditions, respectively. Thus, the noise exposures will be up to 6 dB in excess of the 45 dB DNL limits of the City of Milpitas Noise Element and Title 24 standards.
- The interior noise exposures at the most impacted planned living spaces closest to the UPRR tracks will be up to 46 dB DNL under existing and future conditions. Thus, the noise exposures will be up to 1 dB in excess of the 45 dB DNL limits of the City of Milpitas Noise Element and Title 24 standards.

To meet the City's development standards for noise levels in General Plan Policies 6-I-4 and 6-I-5, the Project would need to implement the recommendations included in the acoustical analysis conducted pursuant to Policy 6-I-2, including:

- All windows and glass balcony doors of all living spaces within 90 feet of the centerline of S. Main Street and with a direct or side view of the roadway should remain closed at all times.
- Install windows and glass doors rated minimum Sound Transmission Class (STC) 28. Standard dual-pane windows and doors will typically meet this criterion.
- When windows are maintained closed for noise control, some type of mechanical ventilation to assure a habitable environment must be provided, per the Mechanical Code. The windows specified to be maintained closed are to be operable, as the requirement does not imply a "fixed" condition. All other windows of the Project and all bathroom windows may have any type of glazing and may be kept opened as desired unless the bathroom is an integral part of a living space without a closeable door.
- In addition to the required STC ratings, the windows and doors shall be installed in an acoustically-effective manner. To achieve an acoustically-effective window construction, the sliding window panels must form an air-tight seal when in the closed position and the window frames must be caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration. Exterior doors must seal air-tight around the full perimeter when in the closed position.

The implementation of the above recommended measures will reduce excess noise exposures and bring the Project into compliance with the 45 dB DNL interior noise exposure standards of the City of Milpitas Noise Element of the General Plan and Title 24.

Based on the traffic analysis conducted for the Project, the Project would result in a net increase of approximately 135 daily vehicle trips. These trips would be distributed over the street network in and around the Project area. The Noise study concluded that this increase in traffic would not impact noise levels along those streets to a significant degree.

*Vibration*

Ground vibration from passing trains consists of rapidly fluctuating motions or waves, which are also measured in decibels (measured in “VdB” for vibration decibels to reduce confusion with sound decibels). Construction activities, train operations, and street traffic are some of the most common external sources of vibration that can be perceptible inside residences.

The City of Milpitas has not adopted vibration criteria, but rail lines, such as the one adjacent to the Project are potential sources of substantial ground vibration. The Federal Transit Administration (FTA) of the U.S Department of Transportation has developed vibration impact assessment criteria for evaluating vibration impacts associated with rail projects. For Category 2 (residences and buildings where people normally sleep), the Vibration Impact Limits are 80 VdB for Infrequent Events such as a train with fewer than 30 vibration events of the same kind per day. This threshold can be used to assess the vibration at the Project site.

The railroad-induced ground-borne vibration levels at the most impacted planned building setback, 42 ft. from the centerline of the railroad tracks, are up to 58 VdB. The FTA guidelines provide methodologies to adjust vacant site vibration levels to determine the approximate vibration levels in various floor elevations of residential structures. Using these FTA adjustment methodologies, the vibration levels at the first floor elevation were calculated to be up to 59 VdB. At the 2nd floor elevation the vibration level was calculated to be up to 57 VdB. At the 3rd floor, the vibration level was calculated to be up to 55 VdB. Thus, the vibration levels will be within the 80 VdB criterion established by the FTA for infrequent rail operations.

Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR and the site-specific noise and vibration study, implementation of the Project would not substantially increase the severity of construction-related noise impacts as identified in the MMSP EIR, or result in new significant construction noise impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. With required implementation of applicable policies from the Noise Element of the General Plan and the specific mitigation identified in the site-specific study for interior noise, impacts from construction noise, traffic-driven noise, and the impacts from community noise would be less than significant.

**10. Traffic and Transportation**

Would the Project:	Equal or Less Severity of	Substantial Increase in	New Significant
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	Impact Previously Identified in Previous CEQA Documents	Severity of Previously Identified Significant Impact in Previous CEQA Documents	Impact
Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, specifically at study area intersections?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conflict with an applicable congestion management program, including, but not limited to, LOS standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Directly or indirectly, result in hazards to pedestrian, bicyclist, or bus rider safety?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in inadequate emergency access?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities adopted for the purpose of avoiding or mitigating an environmental effect and result in a physical change in the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Specific Plan Impacts

#### *Impacts to Intersections and Roadways*

The MMSP EIR analyzed key intersections and roadway and freeway mainline segments, based on the volume and distributional patterns of MMSP-generated traffic and known locations of operational difficulty. Level of Service (LOS) calculations were conducted for the key intersections to evaluate their operations under Baseline conditions with approved project traffic and anticipated intersection modifications and compared to applicable adopted LOS standards.

The MMSP EIR traffic analysis found that implementation of the Midtown Milpitas Specific Plan would result in significant traffic impacts at fourteen (14) intersections in and surrounding the Midtown Planning Area. Of these intersections, nine (9) intersections would be significantly affected by project

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traffic in the AM peak hour, and eleven (11) intersections would be significantly impacted in the PM peak hour. The EIR recommended improvements that would mitigate impacts to less than significant at six (6) of these intersections, including those most impacted by the proposed Project.

The two closest intersections to the proposed Project are S. Main and Serra to the north, and S. Main and Corning Avenue to the south. S. Main and Corning is an unsignalized intersection. In the Specific Plan EIR, S. Main and Serra were projected to be impacted at less than a significant level by Plan buildout traffic, but the impact at S. Main and Corning was analyzed to be significant (discussed below).

The addition of traffic from the MMSP under Baseline Conditions would exacerbate traffic operations already below operational standards on one (1) of the ten (10) study freeway segments during the AM peak hour and all ten (10) segments (one or both directions) during the PM peak hour. This would be mitigated through developer participation, as necessary, in Valley Transit Authority's Countywide Deficiency Program, which levies impact fees to fund regional roadway improvements.

#### *Pedestrian, Bicycle, and Transit Demand*

The MMSP includes the provision of additional facilities to encourage the use of alternative modes of transportation. Specific Plan policies related to bicycle and pedestrian facilities are listed in Appendix A. Implementation of these policies will avoid creating unsatisfied demand for pedestrian and bike access.

As part of the Specific Plan guidelines and through the development review process for each individual project, sidewalks and pedestrian connections would be required to further expand the non-automobile transportation network. These additions to the bicycle and pedestrian network would ensure that alternative forms of transportation are encouraged, and that these facilities are provided for new development in the Midtown area.

#### Project Analysis

##### *Trip Generation*

A Trip Generation estimate for the Project was prepared by Hexagon Transportation Consultants, Inc. (Hexagon 2016) (Appendix C). The trip generation estimates were developed for the Project based on the trip rates provided in the *Institute of Transportation Engineer's (ITE) Trip Generation Manual, 9th Edition*. As allowed by the VTA's *Transportation Impact Analysis Guidelines (TIA, 2014)*, a trip reduction credit was applied based on the existence of a single family residence on the proposed site, whose trips would be supplanted by the new Project.

The trip generation comparisons for the daily, weekday AM peak hour and weekday PM peak hour are provided in Table 2. The Project would generate a net of 10 new AM peak hour vehicle trips, 12 new PM peak hour trips and a net total of 135 vehicle trips daily. Thus, new vehicle trips generated by the Project represent approximately 32% of the total trips estimated to be generated by buildout of the MMSP in this area (135 of 425 new daily trips generated at Sinnott Lane and Main St).

##### *Project Impacts*

In determining whether the trip volume generated for this study is consistent the traffic analysis in the MMSP EIR, Hexagon confirmed that the land use assumption for the Project site is mixed-use

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residential/commercial in the MMSP and that the proposed density is consistent with the MMSP zoning. The proposed Project reflects a residential density of 21 units per acre. Because this is within the specified density range given by the MMSP, the Project is consistent; therefore, the MMSP EIR already considers the development of this parcel. Because the parcel was designated in the MMSP as mixed-use residential/commercial and the Project conforms to the residential zoning prescribed by the MMSP, the Project trips generated by the proposed project are within the traffic analysis prepared for the MMSP EIR. Developments that are consistent with the parcel's MMSP classification are accounted for by the MMSP EIR and would not cause new or greater impacts compared to those analyzed in the EIR, and do not require further mitigation.

In the Specific Plan EIR, the intersection at S. Main and Corning was recommended for signalization as a mitigation measure to avoid the significant impacts from Plan buildout. In the 2010 Specific Plan Update, this recommendation is incorporated into the specific improvements needed to meet Policy 4.8; the recommendation states, "Increase street capacity where feasible to accommodate vehicular demand." Historically, the City has required development to pay its pro-rata share of improvement costs on a project-by-project basis. The City shall continue to use this approach or identify alternative funding mechanisms such as RDA funds or General Funds prior to development in Midtown. Improvements may be phased, according to actual development and the demonstrated need for the improvements.

**Table 2: Project Vehicle Trip Estimates**

Land Use	Size	Daily Rate	Daily Trips	Pk-Hr Rate	AM Peak Hour			PM Peak Hour			
					In	Out	Total	Rate	In	Out	Total
<b><u>Proposed Land Use</u></b>											
Townhomes	25 d.u.	5.81	145	0.4	2	9	11	0.52	9	4	13
<b><u>Existing Use</u></b>											
Single-family home	1 d.u.	9.52	(10)	0.75	0	(1)	(1)	1.00	(1)	0	(1)
<b>Net Project Trips</b>			<b>135</b>		<b>2</b>	<b>8</b>	<b>10</b>		<b>8</b>	<b>4</b>	<b>12</b>

Notes:

d.u. = dwelling unit

- 1 The project also includes 2,000 s.f. of new commercial space, which will replace the same size of existing commercial space. Therefore, the commercial development is not expected to add any new trips
- 2 Residential Condominium/Townhouse (Land Use 230), ITE Trip Generation, 9th Edition, 2012, average rates are used.
- 3 Single-family detached housing (Land Use 210), ITE Trip Generation, 9th Edition, 2012, average rates are used.

Source: Hexagon, April 2016.

The VTA requires a full Transportation Impact Analysis (TIA) for any project expected to generate 100 or more net new weekday (AM or PM peak hour) or weekend peak hour trips, including both inbound and outbound trips. The proposed project is expected to generate 12 net new AM peak hour trips and 14 net new PM peak hour trips. With this number of project-generated trips, a full TIA is not necessary per VTA minimum requirements.

*Cumulative Intersection Impacts*

The Project would also contribute a less-than-significant number of new trips (12 during PM peak hour) to those intersections previously found in the MMSP EIR to be adversely affected by Cumulative plus Plan buildout conditions.

Conclusion

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase any intersection LOS impact as identified in the MMSP EIR, nor would it result in new significant intersection LOS impacts that were not identified in the MMSP EIR. Because the parcel was designated in the MMSP as mixed-use residential/commercial and the Project conforms to the zoning prescribed by the MMSP, the Project trips generated by the proposed project are within the traffic analysis prepared for the MMSP EIR. Developments that are consistent with the parcel's MMSP classification are accounted for by the MMSP EIR and would not cause new or greater impacts compared to those analyzed in the EIR, and do not require further mitigation.

*Transportation Hazards*

Project Analysis

The Project would not directly or indirectly cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent and substantial transportation hazard. All Project designs will conform to City standards via the City review process.

Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of transportation safety hazards identified in the MMSP EIR, nor would it result in new significant impacts that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. Transportation safety hazards impacts would be less than significant. There were no mitigation measures in the MMSP EIR pertaining to transportation safety hazards that would apply to the Project.

**11. Public Services & Utilities**

Would the Project:	Equal or Less Severity of Impact Previously Identified in Previous CEQA Documents	Substantial Increase in Severity of Previously Identified Significant Impact in Previous CEQA Documents	New Significant Impact
Have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in a determination by the wastewater treatment provider that serves or may serve the Project that it does not have adequate capacity to serve the Project's projected demand in addition to the providers' existing commitments and require or result in construction of new wastewater treatment facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs and require or result in construction of landfill facilities or expansion of	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

existing facilities, construction of which could cause significant environmental effects?			
Violate applicable federal, state, and local statutes and regulations related to solid waste?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Specific Plan Impacts**

***Utilities***

***Water Supply***

The City owns, operates and maintains a potable water distribution system which consists of approximately 245 miles of water main, 5 water tanks, 5 pump stations, 16 pressure regulating valves, an emergency supply well and emergency interties. The City also operates and maintains a recycled water system owned by the City of San Jose South Bay Water Recycling (SBWR) program.

Potable water supply for the Midtown planning area is provided by the City of Milpitas through its municipal water system. The City of Milpitas buys domestic water from two sources: the San Francisco Public Utilities Commission (SFPUC), delivered through the Hetch Hetchy Water system, and Santa Clara Valley Water District (SCVWD), delivered through the South Bay Aqueduct. The City’s emergency supply consists of one local groundwater well—with a second one under construction—and three emergency interties, one with the San Jose Water Company and two with the Alameda County Water District.

In 2020, an estimated 8,750 AF of water would be required from the SCVWD to serve the Plan at buildout in addition to anticipated city growth under existing land use regulations. Santa Clara Valley Water District's (SCVWD) "upper bound" projections (meaning its highest projections) for the City of Milpitas include the population projections with the development of the MMSP. Based on the level of safeguard provided by SCVWD's projections and the fact that the City's contract with SCVWD allows for increases in purchased water to accommodate growth, the water supply allocation that would be required by growth in the City of Milpitas, including growth associated with development of the Midtown Milpitas Specific Plan, could be accommodated by SCVWD. Water supply impacts from the Specific Plan are less than significant. No mitigation is required.

Subsequent to adoption of the MMSP, in 2016 the City adopted its updated Urban Water Management Plan (UWMP 2015). The UWMP includes the following relevant conditions:

- Customer water demands include land uses shown in Midtown and Transit Area Specific Plans, 2009 Water Master Plan, planned large redevelopments such as Serra Center and Pacific Mall, miscellaneous redevelopments, and addition of recycled water irrigation for Ed Levin County Park and two hillside golf courses

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- The City has sufficient contractual water supply to meet customer demands
  - The City is proactively seeking to expand its water supply options to provide both operational flexibility and reliability
  - The City is planning to introduce groundwater as a new supply
  - The City is working with several stakeholders to expand the recycled water system to achieve regional benefits
  - 2015 water use is lower than estimated in the 2010 Plan due to severe drought conditions and water usage is expected to rebound to normal levels when the drought is over
  - When water use rebounds, water use is still anticipated to remain below the 2020 water use target of 146 gpcd
  - The 2010 Water Shortage Contingency Plan was successfully implemented and is incorporated into this Plan

Recycled water is also currently available in Milpitas. The water is provided by the South Bay Water Recycling Program (SBWRP) and is distributed by the City of Milpitas through a transmission line which bisects the Midtown Plan Area. Current City policy is to require new commercial and industrial water users within reasonable proximity of existing recycled water mainlines to use recycled water for landscape irrigation. The policy would be extended to any new development within the Midtown planning area, and would require use of recycled water for new public and private landscaping in the street corridors where conditions permit.

Specific Plan policies that will further avoid or reduce impacts to water supplies are listed in Appendix A.

### *Wastewater*

The City does not treat wastewater itself, but instead pumps its wastewater, consisting primarily of industrial and sanitary discharge, through two force mains to the San Jose/Santa Clara Water Pollution Control Plant (WPCP), also known as the San Jose/Santa Clara Regional Wastewater Facility (RWF).

Based upon the programmatic analysis of wastewater treatment needs presented in the MMSP EIR, it was anticipated that the City of Milpitas would require approximately 12.9 mgd average dry weather peak week flow by the year 2020 (this analysis will be further refined with the Sewer-Water Master Plan update). This allocation exceeds the City's then-contractual agreement by 0.4 mgd.

However, the updated UWMP showed that metered wastewater flows in 2015 totaled 6.1 mgd, far below the City's current capacity rights of 14.25 mgd. The City may or may not need to purchase additional capacity during the 20-year timeframe of the proposed Plan, depending on the pace of growth, and whether full buildout allowed under the General Plan occurs.

The MMSP EIR identified mitigation measures to avoid exceeding its capacity rights at WPCP. These measures include: (a) continued participation in the South Bay Water Recycling Water Program and WPCP Action Plan projects; and (b) continued monitoring for adequate discharge capacity and coordination with the Utilities Division to require developers to conduct a sewer needs assessment prior

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to any development approvals. If available treatment capacity has been reached, the City of Milpitas shall not issue the building permit until additional capacity is acquired.

In addition, specific improvements to the wastewater collection system are identified in Policies 6.5 and Policy 6.6 of the MMSP and are listed in Appendix A.

### *Storm Drainage*

The land uses planned by the Midtown Milpitas Specific Plan would result in a reduction of runoff flows when compared to the land uses planned through the existing General Plan. An analysis of potential stormwater discharges in the Plan EIR found that adoption and implementation of the Midtown Milpitas Specific Plan would not require construction of any additional storm water system trunk facilities. For this reason, the Plan would not create or contribute runoff water that would exceed the capacity of the planned stormwater drainage system and no new storm water drainage facilities would be required. Thus, adoption of the Specific Plan would have a less than significant impact to storm drainage infrastructure.

### *Solid Waste*

Refuse from the city is currently disposed of at the Newby Island Landfill, operated by Allied Waste and located on Dixon Landing Road in San Jose. It is a Class III landfill, with an estimated life span of approximately 20 years. The incremental growth anticipated by the Specific Plan would not substantially shorten this life span as it is consistent with the growth that has been anticipated by BFI in their life span projections.

In 2014, Allied Waste submitted a permit to increase the capacity enough to hold 245 towering feet msl of trash from the current allowed height of 150 feet. The capacity would increase from 50.8 million cubic yards to 65.9 million cubic yards. The new closure date would be 2041. Further, compliance with the City's Source Reduction and Recycling (SRR) Program, and the MMSP policies identified in the MMSP (see Appendix A) would further ensure that less-than-significant impacts on landfill capacity would occur. Milpitas also participates in the County's Integrated Waste Management Plan, which provides solid waste planning and established solid waste facility and landfill compliance standards, in compliance with State law (California's Integrated Waste Management Act, 1989).

## ***Public Services***

### Specific Plan Impacts

#### *Fire Protection*

Additional fire and emergency services would be required as a result of implementation of the Specific Plan. These services would come in the form of additional personnel required to respond to emergency situations. The Midtown planning area is served by the recently completed Fire Station Number 1, located at 25 West Curtis Avenue (corner of S. Main Street). Fire Station Number 1 is typically staffed with one battalion commander and six firefighters.

An initial projection by the Milpitas Fire Department estimates that the Specific Plan buildout would result in an increased staffing demand of two persons per day at Fire Station Number 1. Every available

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Fire Code resource would be brought to bear in the planning, design and construction and approval phase of the Project. This will ensure maximum deployment of the latest technology in building fire protection, non-combustible building components and emergency access/egress systems are incorporated into the higher density, intense, mixed-use of the Midtown Area. No mitigation is required for this less-than-significant impact.

#### *Police Protection*

The MMSP EIR found that to maintain the desired police service ratios at Plan buildout, the Police Department would need an additional 11 officers, added over 20 years of buildout, to adequately serve a projected population increase of 7,693 (2,860 dwelling units at 2.69 persons per unit (build, approved and anticipated units)) additional residents. However, the addition of several sworn officers and their related equipment (e.g., police cars) would not necessitate the construction of additional facilities, though there is some likelihood that the department would expand the substation facility to accommodate additional staffing for Midtown, as well as the city as a whole. If such an expansion were to occur, it is unlikely that it would result in significant impacts to the physical environment because it is located in an area that has been previously disturbed. No mitigation is required for this less-than-significant impact.

#### *Schools*

The Midtown Area is located within the boundaries of the Milpitas Unified School District (MUSD), the Berryessa Union School District and the East Side Union High School District. The majority of the Midtown Area is within the MUSD (as is the proposed Project at 260 S. Main St.). There are no schools within the Midtown area; students who live in the area attend one of the District's nine elementary schools, two middle schools, one high school, and one alternative school, all outside the Midtown Area.

The MUSD anticipates that it will have adequate capacity to absorb the additional students generated from the Midtown Area over the next 20 years if the developer fee structure remains in place. The MUSD report recommends that it monitor its own enrollment at the six schools (Spangler, Sinnott, Zanker, Rancho Junior High, and Milpitas High School) and use of developer fees to construct additional portable classrooms or relocatable (portable) classrooms at the various school site(s) to adequately absorb the additional students. Since the Midtown Plan was updated, a new elementary school has been proposed at 1750 McCandless Drive, for which an EIR was prepared in 2015 and certified by MUSD in January 2016. While this school would predominantly serve students from the Transit Area, it could serve some Midtown students as well as take enrollment pressure off Spangler elementary school, which sits right outside the Midtown Plan Area, but is the closest school to the proposed Project.

#### *Parks and Recreation*

The MMSP EIR found that the combination of Parks/Plazas and Linear Parks meets the expected park requirements for the Planning Area given the anticipated population at buildout. All land shown in the Plan as parks or landscape buffers with trails must be dedicated as public parks to meet the requirements (or an equivalent amount of land if park locations are adjusted).

### Project Analysis

#### ***Utilities***

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With 25 units and assuming approximately 84 residents (based on average household size in the City)<sup>15</sup>, the demands on utility systems, including potable water supply, wastewater discharge, and solid waste disposal, are anticipated to be within the capacity ranges assumed in the Milpitas Midtown Plan, especially given the required improvements recommended in (and conducted since) the Plan. In addition, as noted above, a mitigation measure adopted from the MMSP EIR requires coordination with the Utilities Division to require developers to conduct a sewer needs assessment prior to any development approvals. Thus, impacts would be less than significant.

### ***Public Services***

#### *Fire Protection*

Development of the Project will slightly increase the demand for local fire service and result in an associated increase in service calls, but not to an extent that would trigger the need for new or physically altered fire protection facilities. The Project would be subject to the policies, regulations, and standards of the City, including appropriate standards for emergency access roads, emergency water supply, and fire preparedness, capacity, and response.

#### *Police Protection*

Development of the Project will slightly increase the demand for local police service, but not to an extent that would result in the need for new or physically altered police protection facilities. The Project will generate a small amount of additional annual revenue to the City in the form of increased local property taxes that would help offset the increased demand for police service.

#### *Schools*

The Project is within the Milpitas Unified School District (MUSD). Development of the Project may slightly increase the enrollment in local Milpitas Unified School District schools. Per the analysis above under Specific Plan Impacts, the MUSD anticipates that it will have adequate capacity to absorb the additional students generated from the Midtown Area over the next 20 years if the developer fee structure remains in place. Since the Midtown Plan was updated, a new elementary school has been proposed at 1750 McCandless Drive, for which an EIR was prepared in 2015 and certified by MUSD in January 2016. While this school would predominantly serve students from the Transit Area, it could serve some Midtown students as well as take enrollment pressure off Spangler elementary school, which sits right outside the Midtown Plan Area, but is the closest school to the proposed Project.

#### *Parks and Recreation*

Development of the Project will slightly increase the demand for local parks and recreation facilities, but not to an extent that would result in a substantial physical deterioration of existing facilities and would not accelerate the need for new facilities. The Project would bring additional annual revenue to the City in the form of increased local property taxes that would help fund new or expanded parks and recreational facilities.

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<sup>15</sup> Bay Area Census, 2010. Based on American Community Survey, U.S. Census Bureau.  
<http://www.bayareacensus.ca.gov/cities/Milpitas.htm>

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## Conclusions

Based on an examination of the analysis, findings, and conclusions of the MMSP EIR, implementation of the Project would not substantially increase the severity of impacts related to the provision of utilities or public services as identified in the MMSP EIR, nor would it result in new significant impacts related to utilities or public services that were not identified in the MMSP EIR. There is nothing unique or peculiar about the Project that would warrant further environmental review. With required implementation of City of Milpitas development policies and guidelines, impacts related to public services and utilities would be less than significant. There were no other mitigation measures in the MMSP EIR (other than the one identified above under Utilities) that would apply to the Project.

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## Acronyms and Terms

BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BMP	Best management practice
CALGreen	California Green Building Standards Code
CEQA	California Environmental Quality Act
City	City of Milpitas
CNEL	community noise equivalent level
CUP	Conditional Use Permit
dBA	A-weighted decibel
EBMUD	East Bay Municipal Utility District
EIR	Environmental Impact Report
GHG	greenhouse gas
Local Register	Local Register of Historical Resources
LOS	LOS
MMSP	Milpitas Midtown Specific Plan
MTCO <sub>2e</sub>	metric tons carbon dioxide equivalent
NO <sub>x</sub>	nitrogen oxides
NPDES	National Pollution Discharge Elimination System
PM <sub>2.5</sub>	particulate matter, 2.5 micrometers or less
PM <sub>10</sub>	particulate matter, 10 micrometers or less
ROG	reactive organic gas
RWQCB	Regional Water Quality Control Board
sf	square feet
SWRCB	State Water Resources Control Board
TAC	toxic air contaminant
Title 24	California's Energy Efficiency Standards for Residential and Nonresidential Buildings

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# Appendix A-Policies & Development Standards to Reduce Impacts

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## Visual Resources

### Specific Plan Lighting Policies to Reduce Impacts

- Lights should be designed and placed to direct lighting to appropriate surfaces and minimize glare into adjacent areas.
- The light source used in outdoor lighting should provide a white light for better color representation and to create a more pedestrian-friendly environment.
- Low pressure sodium lamps are prohibited.
- To reinforce the pedestrian character of the area, light standards along sidewalks should not exceed 12 to 16 feet in height.
- The use of uplighting to accent interesting architectural features or landscaping is encouraged.

## Air Quality

### General Plan Policies that reduce the impacts include:

- Policy 3.b-G-1: Develop a street network integrated with the pattern of living, working and shopping areas, and which provides for safe, convenient, and efficient vehicular movement within the City and to other parts of the region.
- Policy 3.c-G-1: Promote measures that increase transit use and lead to improved utilization of the existing transportation system.
- Policy 3.c-G-2: Cooperate with other agencies to promote local and regional transit serving Milpitas.
- Policy 3.c-I-1: Actively support regional planning efforts for the development of mass transit facilities generally along either the Union Pacific or Southern Pacific Railroad corridors.
- Policy 3.d-G-1: 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-2: Provide adequate bicycle parking and end-of trip support facilities for bicyclists at centers of public and private activity.
- Policy 3.d-G-3: Promote intermodal commuting options.
- Policy 3.d-G-4: Encourage a mode shift to non-motorized transportation by expanding current pedestrian and bicycle facilities.
- Policy 3.d-I-1: Complete the on-street bicycle and the off-street circulation systems as depicted and described in the Bikeways and Trails Master Plans.

- 
- Policy 3.d-I-2: Develop connections between the off-street trail system and on-street bicycle system to integrate these facilities. Maximize linkages to other trail and bikeway systems to provide alternative transportation routes for pedestrians and bicyclists.
  - Policy 3.d-I-3: View all public capital improvement projects as opportunities to enhance the bicycle and pedestrian systems, and incorporate bicycle and pedestrian facilities into the design of such projects wherever feasible.
  - Policy 3.d-I-4: Encourage walking, biking and transit use by improving bicycle and pedestrian connections to transit centers, specifically the Great Mall and Main/Weller bus transit centers and light rail stations and the proposed commuter/passenger rail stations.
  - Policy 3.d-I-5: Distribute the Milpitas Bicycle Map, Trail Map, bicycle safety information and other related materials at City buildings and schools, and special events.
  - Policy 3.d-I-6: Use funds from the Streets budget for bicycle and pedestrian projects as appropriate.
  - Policy 3.d-I-7: Actively pursue external grant funds for bicycle and pedestrian capital improvement projects.
  - Policy 3.d-I-8: Consider developing additional local sources of funding for trails and bikeways such as special assessment districts, nonprofit corporations and ballot initiatives.
  - 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-11: Make improvements to roads, signs, and traffic signals as needed to improve bicycle travel.
  - Policy 3.d-I-12: Discourage speed bumps and other street features that hinder bicycling on public streets and private parking lots.
  - Policy 3.d-I-13: Where appropriate, install bicycle lockers and/or racks at public parks, civic buildings and other community 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 3.d-I-16: Support bicycle education programs.
  - Policy 3.d-I-18: Provide and accommodate recreational and transportation use of the trail system.

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- Policy 3.d-I-21: Consider building bridges or undercrossings across creek channels, railroad lines and roadways to facilitate bicycling and walking.
  - Policy 3.d-I-26: Require sidewalks on both sides of the street as a condition of development approval, where appropriate with local conditions.
  - Policy 3.d-I-27: Review City street improvement standards to see if there are ways to increase walking enjoyment and safety, particularly with regards to increased sidewalk width, landscape buffers between sidewalks and streets and pedestrian lighting.
  - Policy 3.d-I-28: Develop a Streetscape Master Plan that identifies goals and policies for improving the appearance and enjoyment of public streets and sidewalks in Milpitas, particularly with regards to landscaping, street furniture and the identification of significant entryways and corridors.
  - Policy 2.a-G-6: Implement the MMSP goals, policies and development standards and guidelines to create a mixed-use community that includes high-density, transit-oriented housing and a central community 'gathering place' while maintaining needed industrial, service and commercial uses.
  - Policy 2.a-I-2: Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.
  - Policy 2.a-I-22: Develop the Midtown area, as shown on the MMSP, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages.
  - Policy 2.b-G-1: Support jobs/housing balance programs at the local and regional scale intended to reduce the distance needed to commute.
  - 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.

#### Specific Plan Policies that Reduce the Impact

- Policy 4.12: Add trails along the Hetch Hetchy right-of-way, through the O'Toole Elms, and a bike lane along Abel Street to the Milpitas Trail System.
- 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 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.
- Policy 6.11: Incorporate energy saving devices into new development in order to promote energy conservation--Pursuant to Title 24 of the California Code of Regulations (Energy Conservation Standards), residential development throughout the Midtown Area will be required to meet specified energy performance budgets based on local climate conditions

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and building types. In addition, the California Subdivision Map Act requires the design of new development to consider opportunities for passive or natural heating or cooling opportunities.

## **Biological Resources**

### General Plan Policies that Reduce the Impact

- 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.

## **Historic Resources**

### Specific Plan Policies that Reduce the Impact

- Policy 5.7: Encourage the rehabilitation and adaptive re-use of designated buildings or features.
- Policy 5.8: Consider financial incentives, such as waiving City development fees and establishing a historical building preservation fund, to assist property owners who wish to pursue an historically accurate restoration of their building. Ensure that building restorations receiving City support meet standards of architectural integrity.
- Policy 5.9: Consolidate the Milpitas Historical Commercial District into the MMSP; replace the architectural design guidelines with the design guidelines included within this plan.

## **Geologic & Seismic Risk**

### General Plan Policy that Reduces the Impact

- 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.

## **Greenhouse Gases & Climate Change**

Implementation of the following proposed Specific Plan policies, which encourage and support walking, bicycling and transit usage, would reduce impacts to a level that is less than significant:

- Policy 4.1: Work with the VTA to ensure that the transit stations are attractive facilities which accommodate pedestrians and bicyclists.

- 
- Policy 4.4: Ensure that parking needed for the light rail stations do not displace or otherwise diminish the potential for transit-oriented development.
  - Policy 4.7: Provide a new bicycle and pedestrian-friendly street between Abel and Main Streets between Serra Way and St. John's Church.
  - Policy 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.
  - Policy 3.22: Private development shall be encouraged to provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.

## **Hazardous Materials**

Implementation of the following General Plan policies would help reduce impacts to a level that is less than significant:

- Policy 4.i-I-1: Review proposals for hazardous waste management facilities for conformance with the goals, policies, siting criteria, implementation methods, mitigating measures and other applicable information and recommendations contained in the Santa Clara County Hazardous Waste Management Plan.
- Policy 4.i-I-2: Limit off-site hazardous waste management facilities to those that process the types of waste generated in the City, and limit the capacity of these facilities based on the "fair share" provisions of the Santa Clara County Hazardous Waste Management Plan.
- Policy 4.i-I-3: Given the highly urbanized development of Milpitas, it is not appropriate for hazardous waste residual repositories to be located within the city, and none shall be permitted.

## **Noise**

### General Plan Policies that Reduce the Impact

Implementation of the following policies in the Milpitas General Plan would reduce potential traffic-related noise impacts as well as impacts from train noise:

- 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-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 multi-family 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-10: Reduce the noise impact in existing residential areas where feasible. Noise mitigation measures should be implemented with the cost shared by public and private agencies and individuals.
  - Policy 6-I-14: City streets will be designed to reduce noise levels to adjacent areas. This is most effectively implemented through traffic engineering to prevent residential streets from becoming rush-hour thoroughfares, and through enforcement of speed limits. Physical mitigation measures, such as sound walls, will also be considered, where appropriate.
  - Policy 6-I-15: Promote installation of noise barriers along highways and the railroad corridor where substantial land uses of high sensitivity are impacted by unacceptable noise levels.
  - Policy 6-I-16: Work with Caltrans and other agencies on traffic and railroad noise issues and participate in appropriate noise mitigation programs.

## **Water Quality/Hydrology/Flooding**

### General Plan Policies that Reduce the Impact

- 4.d-G-1: Protect and enhance the quality of water resources in the Planning Area.
- 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.

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### Specific Plan Policies that Reduce the Impact

- Policy 6.6: Provide necessary improvements to the wastewater collection system to serve new development within the Midtown Area <sup>16</sup>
- 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. <sup>17</sup>

## **Land Use**

### Specific Plan Policies that Demonstrate Project Consistency with Plan

- Policy 3.10: Designate parcels along the Main Street and Abel Street corridor mixed-use and allow a mixture of retail, office, housing, service, and public/quasi-public uses in this area.
- Policy 3.12: Encourage housing as the principal upper-level use along Main Street.

## **Traffic**

### Specific Plan Policies that Reduce Impact

- Policy 4.1: Work with the VTA and BART to ensure that the transit stations are attractive facilities that 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.

## **Utilities and Public Services**

### Specific Plan Policies that Reduce the Impact

- Policy 6.2: Reduce water consumption through a program of water conservation measures, such as use of recycled water, water-saving features, and drought-tolerant landscaping.
- Policy 6.3: Construct necessary improvements to provide an adequate water service and fireflow capacity to serve new development.

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<sup>16</sup> See Specific Plan, p.6-8 for the precise location of suggested improvements

<sup>17</sup> See Specific Plan, p.6-8 for the precise location of suggested improvements

- 
- Policy 6.4: Continue to require new residential, commercial and industrial development south of the Hetch Hetchy right-of-way to install recycled water lines with other utilities serving the site. Require conversion of landscape irrigation to recycled water as soon as available. Use recycled water to irrigate landscaping associated with street landscaping and the creek trail system as feasible.
  - Policy 6.5: Provide for the sanitary sewage needs of existing and future development. The City must demonstrate that adequate treatment capacity is available or purchasable prior to issuing planning or building permits. Developers must demonstrate adequate capacity in the conveyance system exists. If a deficiency is identified, the developer must install necessary improvements to handle the wastewater discharge.
  - Policy 6.6: Provide necessary improvements to the wastewater collection system to serve new development within the Midtown Area.
  - Policy 6.17: Implement existing recycling programs in the Midtown Area
  - Policy 6.18: Promote recycling of construction and demolition debris.

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## Appendix B—Noise and Vibration Assessment



## **EDWARD L. PACK ASSOCIATES. INC.**

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www.packassociates.com

August 6, 2016  
Project No. 48-001-R

Mr. Andrew Warner  
City Ventures  
444 Spear Street  
Suite 200  
San Francisco, CA 94105

Subject: Noise and Vibration Assessment Study for the Planned Mixed-Use Development, "Milpitas 1", 260 South Main Street, Milpitas

Dear Mr. Warner:

This report presents the results of a noise and vibration assessment study for the planned mixed-use development at 260 South Main Street in Milpitas, as shown on the Site Plan, Ref. (a). The noise exposures at the site were evaluated against the standards of the City of Milpitas Noise Element, Ref. (b), and the State of California Code of Regulations, Title 24, Ref. (c), which applies to all new multi-family housing. The railroad induced ground vibration levels were evaluated against guidelines established by the Federal Transit Administration (FTA), Ref. (d). The analysis of the on-site sound level measurements indicates that the existing noise environment at the site is due primarily to traffic sources on South Main Street and operations on the Union Pacific Railroad (UPRR) line with minor contributions from Duran & Venables general contracting facility across the railroad tracks and the Acclaim Auto Repair facility adjacent to the south. The results of the study indicate that the exterior exposures are within the limits of the standards. However, interior noise exposure excesses will occur and mitigation measures will be required. The study also reveals that ground-borne vibration levels within the planned structures due to UPRR operations will be within the criteria established by the FTA.

Sections I and II of this report contain a summary of our findings and recommendations, respectively. Subsequent sections contain the site, traffic, rail and project descriptions, analyses, and evaluations. Attached hereto are Appendices A, B, and C, which include the list of references, descriptions of the applicable standards, definitions of the terminology, descriptions of the acoustical instrumentation used for the field survey, and the on-site noise measurement data and calculation tables.

## **I. Summary of Findings**

The noise assessment results presented in the findings were evaluated against the standards of the City of Milpitas Noise Element, which utilizes the Day-Night Level (DNL) descriptor. The standards specify a limit of 65 decibels (dB) DNL at multi-family common areas, such as common open spaces.

The noise standards are not applied to small, limited use private areas such as balconies. Policy 6-I-4 states, “Where actual or projected rear yard and exterior common open space noise exposure exceeds the ‘normally acceptable’ level for new single-family and multifamily residential projects, use mitigation measure to reduce sound levels in those areas to acceptable levels.”

The City of Milpitas Noise Element limits interior living spaces to 45 dB DNL.

The Title 24 standards, applicable only to multi-family housing, also use the DNL descriptor and specify a criterion of 60 dB DNL for the requirement of a noise analysis. When the exterior noise at the building façade exceeds 60 dB DNL, a noise analysis is required that provided the noise mitigation measures necessary to limit the interior noise exposures to 45 dB DNL or lower. Title 24 does not impose exterior noise limits.

The Title 24 standards also specify minimum sound insulation ratings for common partitions separating different dwelling units and dwelling units from interior common spaces. The standards specify that common walls and floor/ceiling assemblies must have a design Sound Transmission Class (STC) rating of 50 or higher. In addition, the floor/ceiling assemblies must achieve a minimum Impact Insulation Class (IIC) rating of 50 or higher. As design details for the interior partitions of the project were not available at the time of this study, an evaluation of the interior partitions has not been made.

The vibration levels shown in the findings are expressed in units of dB re:  $1 \times 10^{-6}$  in/sec (peak velocity). The human response to vibration can vary within wide limits, as it depends on the position and inherent motion of the person perceiving the vibration, as well as the physical and psychological makeup of the particular person.

The City of Milpitas Noise Element currently does not contain quantifiable standards for vibration in residential areas. The vibration analysis presented in this report uses the criteria established by the Federal Transit Administration (FTA). For residences near rail lines that carry fewer than 70 trains per day, which is considered infrequent, the FTA recommends a limit of 80 decibels of vibration (VdB) inside the dwelling. The FTA guidelines provide adjustment methodologies to vacant site vibration levels to determine the approximate vibration levels in various floor elevations of residential structures.

The noise and vibration levels shown below are without the application of mitigation measures and represent the noise and vibration environment for existing site and project conditions.

**A. Exterior Noise Exposures**

- The existing exterior noise exposure at the most impacted planned building setback from South Main Street, 37 ft. from the centerline of the road, is 65 dB DNL. Under future traffic conditions, the noise exposure is estimated to increase to 66 dB DNL. Thus, the noise exposures will be up to 6 dB in excess of the Title 24 criterion.
- The existing exterior noise exposures at the most impacted building setback from the UPRR tracks, 42 ft. from the centerline of the tracks, were 60 and 61 dB DNL on the two day of measurements. The noise exposures due to rail operations only were 46 dB DNL on the first day and 50 dB DNL on the second day. Under future traffic conditions, the noise exposures are estimated to remain at up to 61 dB DNL. Thus, the noise environment along the easterly side of the project is due to noise from the Duran & Venables facility, aircraft flyovers and other background noise sources. Note that the Duran & Venables company will be moving in the near future so noise currently being generated on that site is temporary. Thus, the noise exposures are up to 1 dB in excess of the Title 24 criterion.

- The existing noise exposure from the adjacent Acclaim Auto Repair facility is 52 dB DNL. Short term noise levels from repair operations, air-tools, compressed air, etc., range from 61-78 dBA.
- The existing exterior noise exposure at the most impacted Open Space 1 is 57 dB DNL, with 56 dB due to South Main Street traffic and 51 dB due to rail and other sources from the east. Under future traffic conditions, the noise exposure is estimated to increase to 58 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.
- The existing exterior noise exposure at the most impacted Open Space 2 is 63 dB DNL, with 54 dB due to South Main Street traffic and 62 dB due to rail and other sources from the east. Under future traffic conditions, the noise exposure is estimated to remain at 63 58 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.
- The existing exterior noise exposure at the most impacted Open Space 2 is 57 dB DNL, with 56 dB due to South Main Street traffic and 52 dB due to rail and other sources from the east. Under future traffic conditions, the noise exposure is estimated to increase to 58 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.

The exterior noise exposures will exceed the 60 dB DNL criterion of Title 24. An acoustical analysis is required by the State Building Code. This study is intended to satisfy that requirement.

The exterior noise exposures at the common open spaces areas of the project will be within the limits of the standards. Noise mitigation measures for the exterior areas will not be required.

**B. Interior Noise Exposures**

- The interior noise exposures at the most impacted planned living spaces closest to South Main Street will be up to 50 and 51 dB DNL under existing and future conditions, respectively. Thus, the noise exposures will be up to 6 dB in excess of the 45 dB DNL limits of the City of Milpitas Noise Element and Title 24 standards.
- The interior noise exposures at the most impacted planned living spaces closest to the UPRR tracks will be up to 46 dB DNL under existing and future conditions. Thus, the noise exposures will be up to 1 dB in excess of the 45 dB DNL limits of the City of Milpitas Noise Element and Title 24 standards.

**C. Ground-Borne Vibration**

- The railroad induced ground-borne vibration levels at the most impacted planned building setback, 42 ft. from the centerline of the railroad tracks, are up to 58 VdB. Using the adjustment methodologies of the FTA, the vibration levels at the first floor elevation were calculated to be up to 59 VdB. At the 2<sup>nd</sup> floor elevation the vibration level was calculated to be up to 57 VdB. At the 3<sup>rd</sup> floor, the vibration level was calculated to be up to 55 VdB. Thus, the vibration levels will be within the 80 VdB criterion established by the FTA for infrequent rail operations.

## **II. Recommendations**

### **A. Interior Noise Control**

To achieve compliance with the 45 dB DNL interior standards of the City of Milpitas Noise Element and Title 24, the following mitigation measures are recommended:

- Maintain closed at all times all windows and glass doors of all living spaces within 90 ft. of the centerline of South Main Street and with a direct or side view of the roadway. Install windows and glass doors rated minimum Sound Transmission Class (STC) 28.

When windows are maintained closed for noise control, some type of mechanical ventilation to assure a habitable environment must be provided, per the Mechanical Code. The windows specified to be maintained closed are to be operable, as the requirement does not imply a “fixed” condition. All other windows of the project and all bathroom windows may have any type of glazing and may be kept opened as desired unless the bathroom is an integral part of a living space without a closeable door.

In addition to the required STC ratings, the windows and doors shall be installed in an acoustically-effective manner. To achieve an acoustically-effective window construction, the sliding window panels must form an air-tight seal when in the closed position and the window frames must be caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration. Exterior doors must seal air-tight around the full perimeter when in the closed position.

Please be aware that many dual-pane window and glass door assemblies have inherent noise reduction problems in the traffic and rail noise frequency spectra due to resonance that occurs within the air space between the window lites, and the noise reduction capabilities vary from manufacturer to manufacturer. Therefore, the acoustical test report of all sound rated windows and doors should be reviewed by a qualified acoustician to ensure that the chosen windows and doors will adequately reduce traffic and rail noise to acceptable levels.

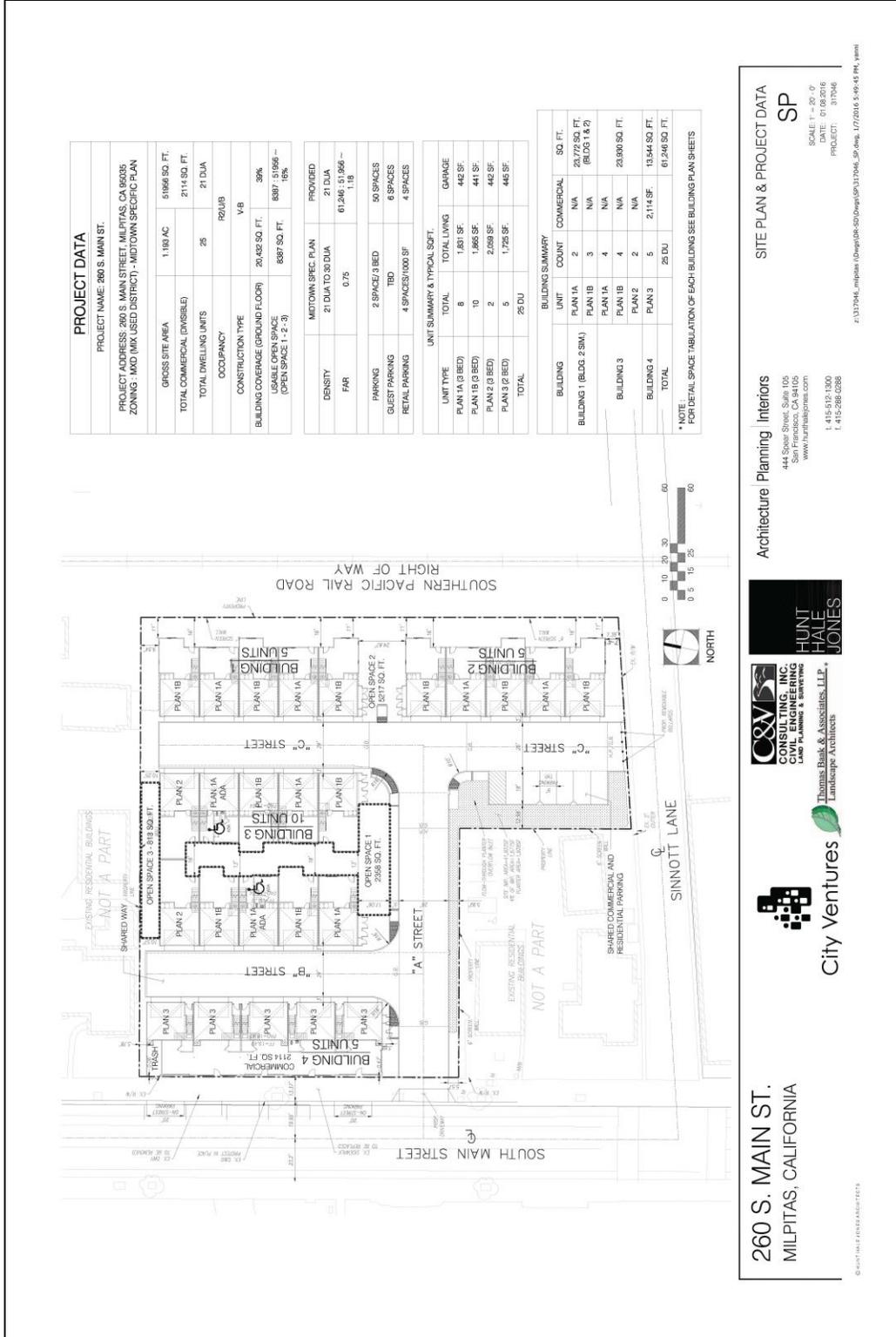
The implementation of the above recommended measures will reduce excess noise exposures for compliance with the 45 dB DNL interior noise exposure standards of the City of Milpitas Noise Element and Title 24.

### **III. Site, Traffic, Railroad and Project Descriptions**

The planned project site is located along South Main Street between and Calaveras Boulevard in Milpitas. The site is relatively flat and at-grade with South Main Street and the Union Pacific Railroad tracks. The site currently contains one vacant building and one currently occupied single –family home. Surrounding land uses include single-family residential adjacent to the north, the Duran & Venables facility across the UPRR tracks to the east, the Acclaim Auto Repair facility adjacent to the south and a vacant lot and the St. John’s Catholic Church across South Main Street to the west.

The primary sources of noise in the site vicinity are traffic on South Main Street and noise from the Duran & Venables facility and other background sources. Noise from the UPRR is audible at the site and is included in the noise data acquired at the east property boundary, but does not add significantly to the background noise environment. Noise from the Acclaim Auto Repair facility is also audible at the site. UPRR operations occur three to four times per day. Traffic volume data for South Main Street are not available from the City of Milpitas.

The planned project includes the construction of 25 townhouse style condominium units in 4 three-story buildings. Three common open space areas will be provided for the residents. Open Space 1 and Open Space 3 will be located at the south and north ends of Building 3, respectively. Open Space 2 will be situated along the east property line between Buildings 1 and 2. A commercial space will be located on the first floor of the building facing South Main Street. Ingress and egress to the project are by way of projects access streets off of South Main Street and Sinnott Lane. The Site Plan is shown on Figure 1 on page 8.



**PROJECT DATA**

PROJECT NAME: 260 S. MAIN ST.  
 PROJECT ADDRESS: 260 S. MAIN STREET, MILPITAS, CA 95035  
 ZONING: (MCD) (MAX USED DISTRICT) - MIDTOWN SPECIFIC PLAN

GROSS SITE AREA	1.180 AC	51966 SQ. FT.
TOTAL COMMERCIAL (DIVISIBLE)		2114 SQ. FT.
TOTAL DWELLING UNITS	25	21 DUA
OCCUPANCY	RESUB	
CONSTRUCTION TYPE	V-B	
BUILDING COVERAGE (GROUND FLOOR)	20,429 SQ. FT.	39%
USABLE OPEN SPACE (OPEN SPACE 1 - 2 - 3)	8397 SQ. FT.	8397 / 51766 = 16%

DENSITY	MIDTOWN SPEC. PLAN	PROVIDED
PHR	21 DUA TO 30 DUA	21 DUA
		61,246 / 51,966 = 1.18
PARKING	2 SPACE / 3 BED	50 SPACES
GUEST PARKING	TBD	6 SPACES
RETAIL PARKING	4 SPACES / 1000 SF	4 SPACES

**UNIT SUMMARY & TYPICAL SQFT.**

UNIT TYPE	TOTAL	TOTAL LIVING	GARAGE
PLAN 1A (3 BED)	8	1,831 SF	442 SF
PLAN 1B (3 BED)	10	1,865 SF	441 SF
PLAN 2 (3 BED)	2	2,059 SF	442 SF
PLAN 3 (2 BED)	5	1,725 SF	445 SF
<b>TOTAL</b>	<b>25 DU</b>		

**BUILDING SUMMARY**

BUILDING	UNIT COUNT	COMMERCIAL	SQ. FT.
BUILDING 1 (BLDG. 2 SIM.)	PLAN 1A 2	N/A	23,772 SQ. FT. (BLDG 1 & 2)
	PLAN 1B 3	N/A	
BUILDING 3	PLAN 1A 4	N/A	23,890 SQ. FT.
	PLAN 1B 2	N/A	
BUILDING 4	PLAN 3 5	2,114 SF	13,544 SQ. FT.
<b>TOTAL</b>	<b>25 DU</b>		<b>61,246 SQ. FT.</b>

\* NOTE: PORT DETAIL SPACE TABULATION OF EACH BUILDING SEE BUILDING PLAN SHEETS

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 HALE  
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**C&S  
 CONSULTING, INC.**  
 CIVIL ENGINEERING  
 LAND PLANNING & SURVEYING

**City Ventures**  
 Thomas Blank & Associates, LLP  
 Landscape Architects

**SP**  
 SCALE: 1" = 20' - 0"  
 DATE: 01/08/2016  
 PROJECT: 317046

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FIGURE 1 – Site Plan

#### **IV. Analysis of the Noise Levels**

##### **A. Existing Noise Levels**

To determine the existing noise environment at the site, continuous recordings of the sound levels were made at three locations, as shown on Figure 2. Location 1 was 45 ft. from the centerline of South Main Street. This location was chosen for security of the sound measuring instrument. Location 2 was 42 ft. from the centerline of the tracks corresponding to the planned minimum setback of the buildings from the railroad. Location 3 was 10 ft. from the property line along Sinnott Lane directly across from the auto service bays at Acclaim Auto Repair. The measurements at Locations 1 and 2 were made on for continuous 48 hour periods each location on April 15-18, 2015, and included representative hours during the daytime and nighttime periods of the DNL index. The measurements at Location 3 were made on April 18, 2016 from 11:00 AM to 3:00 PM.

The noise level data were acquired using Larson-Davis Model 812 Precision Integrating Sound Level Meters. The meters yield, by direct readout, a series of descriptors of the sound levels versus time. These descriptors are commonly used to describe community noise, as defined in Appendix B. The measured descriptors include the  $L_1$ ,  $L_{10}$ ,  $L_{50}$ , and  $L_{90}$ , i.e., those levels exceeded 1%, 10%, 50% and 90% of the time. Also measured were the maximum and minimum levels and the continuous equivalent-energy levels ( $L_{eq}$ ), which are used to calculate the DNL's. The results of the measurements are shown in the data table in Appendix C.

The results of the field survey reveal that the  $L_{eq}$ 's at Location 1 on the first day of measurements, 45 ft. from the centerline of South Main Street, ranged from 58.7 to 65.3 dBA during the daytime and from 48.1 to 62.3 dBA at night. On Day 2, the  $L_{eq}$ 's ranged from 59.0 to 65.7 dBA during the daytime and from 48.4 to 61.9 dBA at night.

The  $L_{eq}$ 's at Location 2, 42 ft. from the UPRR tracks, ranged from 51.1 to 59.1 dBA during the daytime and from 47.5 to 56.1 dBA at night. On Day 2, the  $L_{eq}$ 's ranged from 53.0 to 59.3 dBA during the daytime and from 48.9 to 57.0 dBA at night. Rail passbys occurred during the 7:00 AM, 9:00 AM and 6:00 PM hours on the first day and during the 7:00 AM, 10:00 AM, 2:00 PM and 12:00 AM hours on Day 2.

The  $L_{eq}$ 's at Location 3 ranged from 55.1 to 57.0 dBA. The average hourly  $L_{eq}$  at this location was approximately 56.0 dBA.



**FIGURE 2 – Noise Measurement Locations**

Traffic and rail noise dissipate at the rate of 3 to 6 dB for each doubling of the distance from the source (centerline of the roadway/tracks) to the receiver. Therefore, other locations on the site at greater distances from the roadway or railroad tracks will have lower noise levels.

Vehicular traffic and railroad noise contain wide spectra of frequency components (from 63 to 10,000 Hertz), which are associated with engine, tire, drive-train, wheel/rail interaction, exhaust and other sources. The frequency components are centered primarily in the 100, 250 and 500 Hz octave bands and were used in determining the noise control measures recommended for this project.

**B. Future Noise Levels**

Future traffic volume data for South Main Street are not available. Therefore, we are estimating that the average annual growth rate for South Main Street traffic is approximately 1% per year. Over a 20 year horizon, a 1% per year growth is equivalent to a 22% increase in the traffic volumes. This increase in traffic volume yields a 1 dB increase in the traffic noise levels.

There are no data for future operations for the Union Pacific Railroad. Therefore, we are assuming that the future operations will be similar to present levels.

**C. Ground-Borne Vibration**

To determine the levels of railroad induced ground vibration, on site vibration level measurements were made at the planned minimum setback of the planned building at 42 ft. from the centerline of the railroad tracks. The measurements were made on April 16, 2017 using a PCB Piezotronics 393A03 accelerometer and a Larson Davis 2900 Dual Channel Real Time analyzer. The analyzer measured real time 1/3-octave band vibration levels, in dB re:  $1 \times 10^{-6}$  in./sec. over the frequency range of 0.8 to 10 kHz. The vibration levels from 8 Hz to 80 Hz were used to assess the impact of ground borne vibration on homes of the project. Table I, below, provides the measured vibration levels for the measured train passby.

<b>TABLE I</b>												
<b>Measured Ground Vibration Levels, VdB @ 42 ft. From The Track Centerline</b>												
<b>Freq. (Hz)</b>	<b>8</b>	<b>10</b>	<b>12.5</b>	<b>16</b>	<b>20</b>	<b>25</b>	<b>31.5</b>	<b>40</b>	<b>50</b>	<b>63</b>	<b>80</b>	<b>Total</b>
<b>Freight</b>	31.3	41.2	38.3	44.4	47.3	50.1	50.0	49.5	51.1	50.7	41.0	58

**V. Evaluations of the Noise Exposures and Vibration Levels**

**A. Exterior Noise Exposures**

To evaluate the on-site noise exposures against the City of Milpitas standards and the Title 24 criterion, the DNL's for the survey locations were calculated by decibel averaging of the  $L_{eq}$ 's as they apply to the daily time periods of the DNL index. The DNL is a 24-hour noise descriptor that uses the measured  $L_{eq}$  values to calculate a 24-hour time-weighted average noise exposure. The formula used to calculate the DNL is described in Appendix B. Adjustments were made to the measured noise levels at Location 1 to account for the difference in the distance between the measurement location and the building setback using methods established by the Highway Research Board, Ref. (e). The noise exposure calculations are shown in greater detail in Appendix C.

The results of the calculations indicate that the total exterior noise exposure at measurement Location 1, 45 ft. from the centerline of South Main Street, was 64 dB DNL on each of the two days of measurements under existing conditions.

At the planned minimum building setback of 37 ft. from the centerline of the road, the noise exposure is 65 dB DNL. Under future traffic conditions, the noise exposure is expected to increase to 66 dB DNL. Thus, the noise exposures will be up to 6 dB in excess of the Title 24 criterion.

The noise exposures at measurement Location 2, 42 ft. from the centerline of the railroad tracks, were calculated to be 60 and 61 dB DNL on Day 1 and Day 2, respectively. The noise exposures due to rail operations were calculated to be 46 dB DNL on the first day and 50 dB DNL on the second day. As the rail operational noise is 10 dB or more lower than the background noise exposure, the rail noise does not add to the background noise.

Open Space 1 is 120 ft. from the centerline of South Main Street and 130 ft. from the railroad tracks. This open space is partially shielded by Building 3. The noise exposure from South Main Street traffic was calculated to be 56 dB DNL. The noise exposure from the railroad and other background sources emanating from the east was calculated to be 49 dB DNL. The combined noise exposure was calculated to be 56 dB DNL. Under future conditions, the noise exposure from South Main Street traffic is expected to increase to 57 dB DNL and the railroad noise exposure is expected to remain at 49 dB DNL with a combined noise exposure of 57 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.

Open Space 2 is 220 ft. from the centerline of South Main Street and 30 ft. from the railroad tracks. This open spaces is partially shielded from South Main Street traffic by Building 3. The noise exposure from South Main Street traffic was calculated to be 54 dB DNL. The noise exposure from the railroad and other background sources emanating from the east was calculated to be 62 dB DNL. The combined noise exposure was calculated to be 63 dB DNL. Under future conditions, the noise exposure from South Main Street traffic is expected to increase to 55 dB DNL and the railroad noise exposure is expected to remain at 62 dB DNL with a combined noise exposure of 63 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.

Open Space 3 is 116 ft. from the centerline of South Main Street and 120 ft. from the railroad tracks. This open space is partially shielded by Building 3. The noise exposure from South Main Street traffic was calculated to be 56 dB DNL. The noise exposure from the railroad and other background sources emanating from the east was calculated to be 50 dB DNL. The combined noise exposure was calculated to be 57 dB DNL. Under future conditions, the noise exposure from South Main Street traffic is expected to increase to 57 dB DNL and the railroad noise exposure is expected to remain at 50 dB DNL with a combined noise exposure of 58 dB DNL. Thus, the noise exposures will be within the 65 dB DNL limit of the City of Milpitas Noise Element standards.

**B. Interior Noise Exposures**

To evaluate the interior noise exposures in project living spaces, a 15 dB reduction was applied to the exterior noise exposure to represent the attenuation provided by the building shell under *annual-average* conditions. The *annual-average* condition assumes that windows have standard dual-pane thermal insulating glass and are kept open up to 50 % of the time for natural ventilation. Thus, the interior noise exposures in living spaces closest to South Main Street will be up to 50 and 51 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be up to 6 dB in excess of the City of Milpitas Noise Element and Title 24 standards.

The interior noise exposures in the most impacted living spaces closest to the UPRR tracks will be up to 46 dB DNL. Thus, noise exposures will be up to 1 dB in excess of the 45 dB DNL limits of the of the City of Milpitas Noise Element and Title 24 standards.

As the interior noise exposures will exceed the limits of the standards, mitigation measures will be required. The recommended measures are described in Section II of this report.

**C. Vibration Levels**

To determine the levels of vibration in the project structures, the FTA methodologies uses factors for coupling loss or the way the house or structure is tied to the ground, how the floors resonate and the small amounts of vibrational energy that are lost as it travels through the building.

Lightweight structures on a large concrete slab foundation have a 5 VdB downward adjustment for coupling loss. A 6 VdB increase is added for floor resonances and a 2 VdB reduction per floor elevation is subtracted. Therefore, the ground vibration level caused by a freight train passby of up to 58 VdB on the bare ground, the vibration levels in the most impacted dwelling units will be up to 59 VdB at the first floor, 57 VdB at the 2<sup>nd</sup> floor, 55 VdB at the 3<sup>rd</sup> floor. Thus, the vibration levels in dwelling units will be within the 80 VdB criterion established by the FTA for infrequent rail operations.

The vibration levels will be within the limits established by the Federal Transit Administration. Vibration mitigation measures will not be required.

In conclusion, the exterior noise exposures at the building setbacks will exceed the 60 dB DNL criterion of Title 24 for the requirement of an acoustical analysis. The exterior noise exposures at the common open space areas will be within the limits of the City of Milpitas Noise Element standards. Noise mitigation for the exterior areas will not be required.

Interior noise exposure excesses in relation to Title 24 and the City of Milpitas Noise Element will occur and mitigation measures for the interior living spaces will be required. The recommended measures are described in Section II of this report.

This report presents the results of a noise and vibration assessment study for the planned “Milpitas 1” mixed-use development at 260 South Main Street in Milpitas. The study findings and recommendations are based on field measurements and other data and are correct to the best of our knowledge. However, significant changes in the predicted traffic volumes, UPRR operations, speed limits, motor vehicle or rail technology, noise regulations, or other future changes beyond our control may produce long-range noise results different from our estimates.

If you have any questions or would like an elaboration on this report, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

A handwritten signature in blue ink, reading "Jeffrey K. Pack", is written over a horizontal line.

Jeffrey K. Pack  
President

Attachments: Appendices A, B, and C

## **APPENDIX A**

### **References**

- (a) Site Plan, 260 South Main Street, by Hunt, hale, Jones Architects, January 8, 2016
- (b) Noise Element of the General Plan, City of Milpitas, March 2002
- (c) California Code of Regulations, Title 24, Chapter 2, Section 1207 “Sound Transmission”, Subsection 1207.4 (Allowable Interior Noise Levels), Revised 2013
- (d) FTA Guidance Manual, Transit Noise and Vibration Impact Assessment, Sections 8 and 11, Prepared by Harris, Miller, Miller & Hanson, Inc., 1995 - [www.hmmh.com/rail05.html](http://www.hmmh.com/rail05.html)
- (e) Highway Research Board, “Highway Noise – A Design Guide for Highway Engineers”, Report 117, 1971

## **APPENDIX B**

### **Noise Standards, Terminology, Instrumentation and Building Shell Controls**

#### **1. Noise Standards**

##### **A. City of Milpitas Noise Element Standards**

The noise standards of the City of Milpitas Noise Element of the General Plan, updated March 19, 2002, employ the Day-Night Level (DNL) noise descriptor, which is a 24-hour average noise descriptor that penalizes noise created between 10:00 p.m. and 7:00 a.m. by 10 decibels. The “Normally Acceptable” noise exposure for single-family land-use is 60 dB DNL. For multi-family land-use, the “Normally Acceptable” limit is 65 dB DNL. Schools, libraries, churches, nursing homes, hospitals, playgrounds, parks, auditoriums, amphitheaters, office buildings, and other commercial or professional business uses are acceptable up to 70 dB DNL. Sports arenas, industrial, manufacturing, golf courses, riding stables, water recreation and cemeteries are acceptable up to 75 dB DNL.

Interior noise exposures in all residences are limited to 45 dB DNL.

**B. Title 24 Noise Standards**

The California Code of Regulations, 1, Title 24, Chapter 2, Section 1207, "Sound Transmission", applies to all new multi-family dwellings including condominiums, apartments, hotels, motels and dormitories. The standards, which utilize either the Day-Night Level (DNL) descriptor or the Community Noise Equivalent Level (CNEL), whichever is consistent with the local jurisdictional standards, specify that interior noise exposures from exterior sources shall not exceed 45 dB DNL/CNEL in any habitable room.

The Title 24 standards also establish minimum sound insulation requirements for interior partitions separating different dwelling units from each other and dwelling units from common spaces such as garages, corridors, equipment rooms, etc. The common interior walls and floor/ceiling assemblies regulated by the California Building Code (apartments, condominiums, hotels, etc.) must achieve a minimum Sound Transmission Class (STC) rating of 50 for airborne noise. Common floor/ceiling assemblies must achieve an Impact Insulation Class (IIC) rating of 50 for impact noise. These ratings are based on laboratory tested partitions. Field tested partitions must achieve ratings of NIC and FIIC 45. Attached dwellings regulated by the California Residential Code (townhouses under 3 stories in height) must achieve minimum STC 45 for the common partition.

## 2. Terminology

### A. Statistical Noise Levels

Due to the fluctuating character of urban traffic noise, statistical procedures are needed to provide an adequate description of the environment. A series of statistical descriptors have been developed which represent the noise levels exceeded a given percentage of the time. These descriptors are obtained by direct readout of the Sound Level Meters. Some of the statistical levels used to describe community noise are defined as follows:

- $L_1$  - A noise level exceeded for 1% of the time.
- $L_{10}$  - A noise level exceeded for 10% of the time, considered to be an "intrusive" level.
- $L_{50}$  - The noise level exceeded 50% of the time representing an "average" sound level.
- $L_{90}$  - The noise level exceeded 90 % of the time, designated as a "background" noise level.
- $L_{eq}$  - The continuous equivalent-energy level is that level of a steady-state noise having the same sound energy as a given time-varying noise. The  $L_{eq}$  represents the decibel level of the time-averaged value of sound energy or sound pressure squared and is used to calculate the DNL and CNEL.

**B. Day-Night Level (DNL)**

Noise levels utilized in the standards are described in terms of the Day-Night Level (DNL). The DNL rating is determined by the cumulative noise exposures occurring over a 24-hour day in terms of A-Weighted sound energy. The 24-hour day is divided into two subperiods for the DNL index, i.e., the daytime period from 7:00 a.m. to 10:00 p.m., and the nighttime period from 10:00 p.m. to 7:00 a.m. A 10 dB weighting factor is applied (added) to the noise levels occurring during the nighttime period to account for the greater sensitivity of people to noise during these hours. The DNL is calculated from the measured  $L_{eq}$  in accordance with the following mathematical formula:

$$DNL = \left[ \left[ (10 \log_{10}(10^{\sum L_{eq}(7-10)})) \times 15 \right] + \left[ \left( (10 \log_{10}(10^{\sum L_{eq}(10-7)}) + 10) \right) \times 9 \right] \right] / 24$$

**C. A-Weighted Sound Level**

The decibel measure of the sound level utilizing the "A" weighted network of a sound level meter is referred to as "dBA". The "A" weighting is the accepted standard weighting system used when noise is measured and recorded for the purpose of determining total noise levels and conducting statistical analyses of the environment so that the output correlates well with the response of the human ear.

### **3. Instrumentation**

The on-site field measurement data were acquired by the use of one or more of the precision acoustical instruments shown below. The acoustical instrumentation provides a direct readout of the L exceedance statistical levels including the equivalent-energy level ( $L_{eq}$ ). Input to the meters was provided by a microphone extended to a height of 5 ft. above the ground. The meter conforms to ANSI S1.4 for Type 1 instruments. The "A" weighting network and the "Fast" response setting of the meter were used in conformance with the applicable ISO and IEC standards. All instrumentation was acoustically calibrated before and after field tests to assure accuracy.

Larson Davis 831 Precision Integrating Sound Level Meter

Larson Davis LDL 812 Precision Integrating Sound Level Meter

Larson Davis 2900 Real Time Analyzer

### **4. Building Shell Controls**

The following additional precautionary measures are required to assure the greatest potential for exterior-to-interior noise attenuation by the recommended mitigation measures. These measures apply at those units where closed windows are required:

- Unshielded entry doors having a direct or side orientation toward the primary noise source must be 1-5/8" or 1-3/4" thick, insulated metal or solid-core wood construction with effective weather seals around the full perimeter.
- If any penetrations in the building shell are required for vents, piping, conduit, etc., sound leakage around these penetrations can be controlled by sealing all cracks and clearance spaces with a non-hardening caulking compound.
- Ventilation openings shall not compromise the acoustical integrity of the building shell.

**APPENDIX C**

**Noise and Vibration Measurement Data and Calculation Tables**

## DNL CALCULATIONS

CLIENT: CITY VENTURES  
 FILE: 48-001  
 PROJECT: MILPITAS 1  
 DATE: 3/14-16/2016  
 SOURCE: S. MAIN ST., UPRR

TIME	Leq	10 <sup>^</sup> Leq/10		
LOCATION 1 S. Main St. Dist. To Source 45 ft.				
7:00 AM	65.3	3388441.6		
8:00 AM	63.5	2238721.1		
9:00 AM	64.4	2754228.7		
10:00 AM	62.1	1621810.1		
11:00 AM	63.2	2089296.1		
12:00 PM	63.8	2398832.9		
1:00 PM	63.9	2454708.9		
2:00 PM	63.7	2344228.8		
3:00 PM	63.2	2089296.1		
4:00 PM	63.0	1995262.3		
5:00 PM	65.2	3311311.2		
6:00 PM	64.2	2630268.0		
7:00 PM	61.8	1513561.2		
8:00 PM	59.6	912010.8		
9:00 PM	58.7	741310.2	SUM=	32483288
10:00 PM	57.6	575439.9	Ld=	75.1
11:00 PM	54.1	257039.6		
12:00 AM	52.4	173780.1		
1:00 AM	51.3	134896.3		
2:00 AM	49.2	83176.4		
3:00 AM	48.1	64565.4		
4:00 AM	51.4	138038.4		
5:00 AM	54.6	288403.2		
6:00 AM	62.3	1698243.7	SUM=	3413583
			Ln=	65.3
Daytime Level= 75.1				
Nighttime Level= 75.3				
<b>DNL= 64</b>				
24-Hour Leq= 61.7				

TIME	Leq	10 <sup>^</sup> Leq/10		
LOCATION 1 S. Main St. Dist. To Source 45 ft.				
7:00 AM	65.7	3715352.3		
8:00 AM	63.6	2290867.7		
9:00 AM	65.0	3162277.7		
10:00 AM	62.0	1584893.2		
11:00 AM	63.3	2137962.1		
12:00 PM	63.8	2398832.9		
1:00 PM	64.0	2511886.4		
2:00 PM	63.0	1995262.3		
3:00 PM	62.8	1905460.7		
4:00 PM	62.6	1819700.9		
5:00 PM	64.8	3019951.7		
6:00 PM	63.8	2398832.9		
7:00 PM	62.5	1778279.4		
8:00 PM	60.2	1047128.5		
9:00 PM	59.0	794328.2	SUM=	32561017
10:00 PM	57.1	512861.4	Ld=	75.1
11:00 PM	54.3	269153.5		
12:00 AM	52.8	190546.1		
1:00 AM	51.2	131825.7		
2:00 AM	49.4	87096.4		
3:00 AM	48.4	69183.1		
4:00 AM	51.6	144544.0		
5:00 AM	55.1	323593.7		
6:00 AM	61.9	1548816.6	SUM=	3277620
			Ln=	65.2
Daytime Level= 75.1				
Nighttime Level= 75.2				
<b>DNL= 64</b>				
24-Hour Leq= 61.7				

### DNL CALCULATIONS

CLIENT: CITY VENTURES  
 FILE: 48-001  
 PROJECT: MILPITAS 1  
 DATE: 3/14-16/2016  
 SOURCE: S. MAIN ST., UPRR

LOCATION 2	UPRR		
Dist. To Source		42 ft.	
TIME	Leq	10 <sup>^</sup> Leq/10	
7:00 AM	57.4	549540.9	
8:00 AM	54.4	275422.9	
9:00 AM	57.7	588843.7	
10:00 AM	53.1	204173.8	
11:00 AM	51.1	128825.0	
12:00 PM	54.6	288403.2	
1:00 PM	54.2	263026.8	
2:00 PM	56.1	407380.3	
3:00 PM	55.9	389045.1	
4:00 PM	55.4	346736.9	
5:00 PM	55.3	338844.2	
6:00 PM	59.1	812830.5	
7:00 PM	56.4	436515.8	
8:00 PM	54.8	301995.2	
9:00 PM	51.8	151356.1	SUM= 5482940
10:00 PM	52.6	181970.1	Ld= 67.4
11:00 PM	54.3	269153.5	
12:00 AM	51.3	134896.3	
1:00 AM	47.5	56234.1	
2:00 AM	48.4	69183.1	
3:00 AM	51.6	144544.0	
4:00 AM	51.4	138038.4	
5:00 AM	53.4	218776.2	
6:00 AM	56.1	407380.3	SUM= 1620176
		1.0 Ln=	62.1
	Daytime Level=	67.4	
	Nighttime Level=	72.1	
	<b>DNL=</b>	<b>60</b>	
	24-Hour Leq=	54.7	

LOCATION 2	UPRR		
Dist. To Source		42 ft.	
TIME	Leq	10 <sup>^</sup> Leq/10	
7:00 AM	59.3	851138.0	
8:00 AM	55.1	323593.7	
9:00 AM	53.2	208929.6	
10:00 AM	58.8	758577.6	
11:00 AM	53.0	199526.2	
12:00 PM	54.1	257039.6	
1:00 PM	54.7	295120.9	
2:00 PM	58.5	707945.8	
3:00 PM	54.9	309029.5	
4:00 PM	54.6	288403.2	
5:00 PM	55.2	331131.1	
6:00 PM	54.3	269153.5	
7:00 PM	55.0	316227.8	
8:00 PM	54.9	309029.5	
9:00 PM	53.9	245470.9	SUM= 5670317
10:00 PM	53.6	229086.8	Ld= 67.5
11:00 PM	56.8	478630.1	
12:00 AM	55.1	323593.7	
1:00 AM	48.9	77624.7	
2:00 AM	50.8	120226.4	
3:00 AM	49.5	89125.1	
4:00 AM	52.0	158489.3	
5:00 AM	54.5	281838.3	
6:00 AM	57.0	501187.2	SUM= 2259802
		Ln=	63.5
	Daytime Level=	67.5	
	Nighttime Level=	73.5	
	<b>DNL=</b>	<b>61</b>	
	24-Hour Leq=	55.2	

Values shown in RED include rail passbys

## DNL CALCULATIONS

CLIENT: CITY VENTURES  
 FILE: 48-001  
 PROJECT: MILPITAS 1  
 DATE: 3/14-16/2016  
 SOURCE: S. MAIN ST., UPRR

LOCATION 2 UPRR			
Dist. To Source 42 ft.			
TIME	Railroad Only		
	Leq	10 <sup>n</sup> Leq/10	
7:00 AM	49.8	95499.3	
8:00 AM		1.0	
9:00 AM	56.5	446683.6	
10:00 AM		1.0	
11:00 AM		1.0	
12:00 PM		1.0	
1:00 PM		1.0	
2:00 PM		1.0	
3:00 PM		1.0	
4:00 PM		1.0	
5:00 PM		1.0	
6:00 PM	56.0	398107.2	
7:00 PM		1.0	
8:00 PM		1.0	
9:00 PM		1.0 SUM=	940302
10:00 PM		1.0 Ld=	59.7
11:00 PM		1.0	
12:00 AM		1.0	
1:00 AM		1.0	
2:00 AM		1.0	
3:00 AM		1.0	
4:00 AM		1.0	
5:00 AM		1.0	
6:00 AM		1.0 SUM=	9
		Ln=	9.5
Daytime Level=		59.7	
Nighttime Level=		19.5	
<b>DNL=</b>		<b>46</b>	
24-Hour Leq=		45.9	

LOCATION 2 UPRR			
Dist. To Source 42 ft.			
TIME	Railroad Only		
	Leq	10 <sup>n</sup> Leq/10	
7:00 AM	51.3	134896.3	
8:00 AM		1.0	
9:00 AM		1.0	
10:00 AM	57.5	562341.3	
11:00 AM		1.0	
12:00 PM		1.0	
1:00 PM		1.0	
2:00 PM	56.9	489778.8	
3:00 PM		1.0	
4:00 PM		1.0	
5:00 PM		1.0	
6:00 PM		1.0	
7:00 PM		1.0	
8:00 PM		1.0	
9:00 PM		1.0 SUM=	1187028
10:00 PM		1.0 Ld=	60.7
11:00 PM		1.0	
12:00 AM	50.3	107151.9	
1:00 AM		1.0	
2:00 AM		1.0	
3:00 AM		1.0	
4:00 AM		1.0	
5:00 AM		1.0	
6:00 AM		1.0 SUM=	107160
		Ln=	50.3
Daytime Level=		60.7	
Nighttime Level=		60.3	
<b>DNL=</b>		<b>50</b>	
24-Hour Leq=		47.3	

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## Appendix C—Trip Generation Assessment



# HEXAGON TRANSPORTATION CONSULTANTS, INC.

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August 18, 2016

Mr. Andrew Warner  
City Ventures  
444 Spear Street, Suite 200  
San Francisco, CA 94105

**Re: *Trip Generation Analysis for the Proposed Project at 260 S. Main Street in Milpitas, California***

Dear Mr. Warner:

The purpose of this letter is to quantify the potential traffic increase generated by the proposed mixed-use development at 260 S. Main Street in Milpitas, California. The project as proposed would consist of the demolition of the existing 2,000 square feet of commercial space and the one existing single-family house and the development of a 25 townhomes and 2,000 square feet of commercial space.

Trip generation for the proposed townhomes was estimated using rates published in the ITE *Trip Generation Manual, Ninth Edition*. Based on ITE rates, the proposed townhomes are estimated to generate 145 daily trips with 11 trips occurring during the AM peak hour, and 13 trips occurring in the PM peak hour (see Table 1).

The existing single-family home trip generation can be credited against the new townhome trips. The traffic generated by the existing single-family house was estimated based on rates published in the ITE *Trip Generation Manual, Ninth Edition*. Based on ITE rates, the existing home is estimated to generate 10 daily trips with 1 trip occurring during the AM peak hour, and 1 trip occurring in the PM peak hour. The existing commercial spaces on the site would be replaced by the same size of commercial spaces with the project. Therefore, the proposed commercial development is expected to generate the same number of trips as the existing commercial space.

After subtracting the existing use trip credit, the project is estimated to produce a net increase of 135 daily trips with an increase of 10 trips during the AM peak hour, and an increase of 12 trips during the PM peak hour. The project trip generation estimates are presented in Table 1. The net trips added by the project are relatively low; therefore, further traffic study is not necessary.

Please do not hesitate to contact us if there are any questions on our analysis.

Sincerely,

**HEXAGON TRANSPORTATION CONSULTANTS, INC.**

Gary K. Black  
President



**Table 1**  
**Project Trip Generation**

Land Use	Size	Daily Rate	Daily Trips	AM Peak Hour			PM Peak Hour						
				Pk-Hr Rate	Trips		Pk-Hr Rate	Trips					
				In	Out	Total	In	Out	Total				
<b><i>Proposed Land Use</i></b> <sup>1</sup>													
Townhomes	<sup>2</sup> 25 d.u.	5.81	145	0.44	2	9	11	0.52	9	4	13		
<b><i>Existing Use</i></b> <sup>1</sup>													
Single-family home	<sup>3</sup> 1 d.u.	9.52	(10)	0.75	0	(1)	(1)	1.00	(1)	0	(1)		
<b>Net Project Trips</b>			<b>135</b>	<b>2</b>	<b>8</b>	<b>10</b>	<b>8</b>	<b>4</b>	<b>12</b>				

**Notes:**

d.u. = dwelling unit

1 The project also includes 2,000 s.f. of new commercial space, which will replace the same size of existing commercial space. Therefore, the commercial development is not expected to add any new trips.

2 Residential Condominium/Townhouse (Land Use 230), ITE Trip Generation, 9th Edition, 2012, average rates are used.

3 Single-family detached housing (Land Use 210), ITE Trip Generation, 9th Edition, 2012, average rates are used.

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## Appendix D—Site Photos



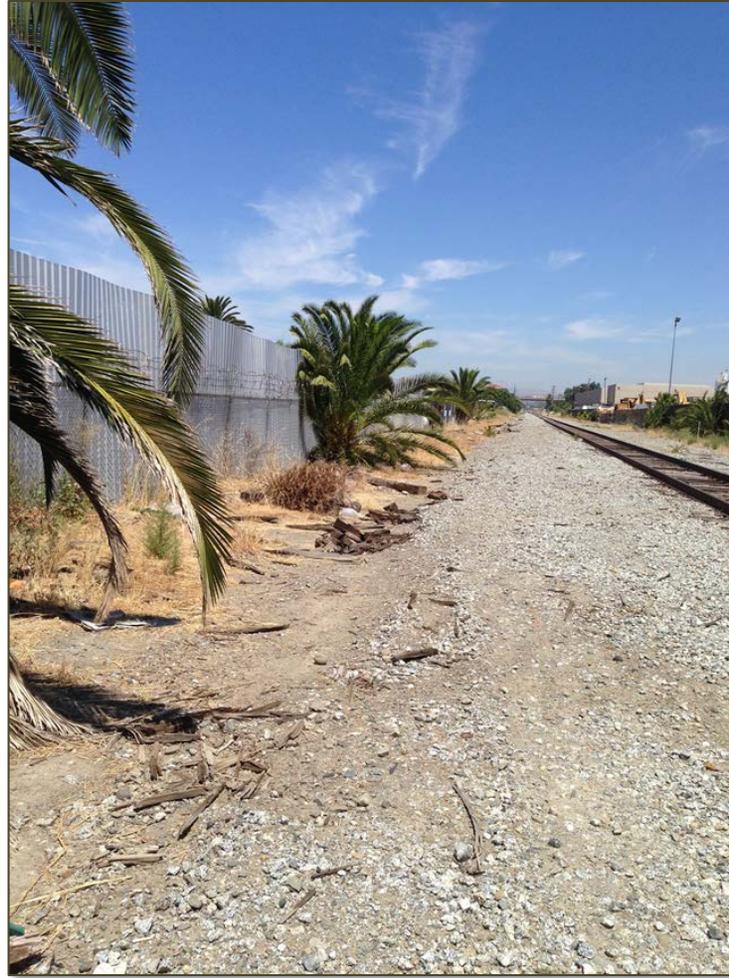
Northern portion of project site, seen from across S. Main St. looking east

Source: Stantec



Project site, seen from rear fence looking west

Source: Stantec



UPRR tracks

Seen from behind property, looking north

Source: Stantec



Adjacent residential properties north (244 S. Main)

Source: Stantec



Existing residential structure on Project site

Source: Stantec



View of southeastern portion of site

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## Appendix E—Remedial Action Agreement

# County of Santa Clara

Department of Environmental Health

1555 Berger Drive, Suite 300  
San Jose, California 95112-2716  
(408) 918-3400  
www.EHinfo.org



## REMEDIAL ACTION AGREEMENT

January 29, 2016

APNs <086-27-014, -052, -051, -009>

Mr. Andrew Warner (andrew@cityventures.com)  
City Ventures  
3121 Michelson Dr. Suite 150  
Irvine, CA 92612

**SUBJECT: VOLUNTARY OVERSIGHT OF REMEDIAL ACTION AND INVESTIGATION, CITY VENTURES MILPITAS, 244, 260, 270 SOUTH MAIN ST. AND SINNOTT AVE. MILPITAS, CALIFORNIA**

Dear Mr. Warner:

On January 6, 2016, we received your application to enter into the Voluntary Cleanup Program. This application provided background and a summary of work previously conducted at your site. Based on review of the subject documents, it appears that a discharge of waste<sup>1</sup>, in the form of "waste and occurrence", has occurred at the subject site, which requires further characterization and potential remediation.

Santa Clara County Department of Environmental Health (DEH) is assuming the role as the regulatory oversight agency for characterization and potential remediation of the released waste as allowed by Section 101480 of the California Health and Safety Code. DEH has determined based on our research that City Ventures c/o Mr. Andrew Warner is the Responsible Party<sup>2</sup> for this release of waste. By entering into this Remedial Action Agreement (Agreement), you agree to the following conditions.

- All subsequent directives and written agreements from DEH regarding testing, monitoring, and analysis to determine the nature, extent, and risk of contamination, potential remedial action to be taken, and cleanup goals (including deadlines for required submittals), collectively referred to as Corrective Action, will be considered a part of this Agreement.
- All Corrective Action activities will follow Corrective Action Requirements under Title 23 of the California Code of Regulations and Regional Water Quality Control Board

<sup>1</sup> Waste as defined in Health and Safety Code Section 101075, and Water Code Section 13050.

<sup>2</sup> Responsible Party as defined in Sections 25260 and 101480 of the Health and Safety Code.

Guidance documents available at [www.waterboards.ca.gov](http://www.waterboards.ca.gov). Santa Clara Valley Water District must be contacted for monitoring well installation and destruction. Their Well Ordinance and Guidance can be found at [www.valleywater.org](http://www.valleywater.org). Regardless of the level of oversight from DEH, you are responsible for the timely reporting, investigation, and cleanup of soil and groundwater pollution such that the beneficial uses of waters of the State are protected, and in compliance with appropriate laws, regulations and policies. You are also responsible for compliance with any new laws or regulations that may be applicable during the term of this agreement.

- If, at any time, the Responsible Party is not in compliance with directives from DEH that constitute a portion of this Agreement, DEH can, with adequate notice, terminate this Agreement. If the Agreement is terminated prior to adequate completion of the Agreement, the case will be referred to the Department of Toxic Substance Control (DTSC) or Regional Water Quality Control Board (RWQCB) for issuance of a State Corrective Action Order, Cleanup and Abatement Order, or other order or enforceable agreement, as appropriate, for further remedial action directives.
- If, upon further characterization, DEH determines that the release of waste that is the subject of this Agreement is sufficiently complex, may present such a significant potential hazard to human health or the environment, or may not be in the best interest of the DEH to continue as lead agency, the case may be referred to the DTSC or RWQCB for further action. In the event this case is referred to and accepted by the DTSC or RWQCB then this agreement is terminated.
- Pursuant to Section 25262 of the Health and Safety Code, a Responsible Party may request the designation of an administering or lead agency other than DEH when required to conduct corrective action. Please contact DEH for further information about the State Site Designation Committee process.
- This case is subject to California regulations for electronic submittal of information for all soil and groundwater cleanup cases in California (Title 23, Division 3, Chapter 30, Articles 1 and 2; Title 27, Division 3, Subdivisions 1 and 2). To be considered complete, all required submittals must be uploaded to the State of California Geotracker database ([http://www.waterboards.ca.gov/water\\_issues/programs/ust/electronic\\_submittal/](http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/)) in compliance with State Water Resources Control Board (Geotracker) requirements by specified submittal due dates. Electronic copy submittal to DEH is required, except for specified documents and oversized portions of submittals (larger than 8½ x 17 inches) which must be submitted to our office by established due dates, with appropriately identifying cover.
- After determining that the Responsible Party has completed the actions required by the Agreement, DEH will provide the Responsible Party with a letter that certifies that the cleanup goals embodied in the Agreement have been accomplished and no further action is required.

- As allowed by Section 101490 of the Health and Safety Code, DEH will invoice the Responsible Party to recover the reasonable and necessary costs for oversight of the identified release up to and including implementing this Agreement. For this case, approximately 2.5 hours have already been worked, and will be included in the first invoice. DEH staff time will be invoiced quarterly at the rate specified in the County Fee Ordinance. The current hourly charge rate is \$191 per hour under the County's fee schedule and adopted by the Board of Supervisors. Failure to pay invoices within 60 days may result in a 25% late charge and could result in assignment of the charges to the County's Department of Revenue for legal collections, and potential termination of this Remedial Action Agreement with subsequent referral to the DTSC or RWQCB.

**We require an initial deposit of eight hours at the current hourly rate of \$191 per hour for a total of \$1,528 to be submitted along with this Agreement. Please submit a check in the amount of \$1,528 made payable to "County of Santa Clara DEH VCP".**

Please sign and date below and return one copy of this Remedial Action Agreement in the enclosed envelope within 45 days of the date of this letter. In the event that you decide that you prefer an agency other than DEH as lead agency, please submit your intention in writing within 45 days of the date of this letter. Should you have any questions, Mr. Aaron Costa is the Voluntary Cleanup Program coordinator. He can be reached at (408) 918-1954 or by email at [aaron.costa@deh.sccgov.org](mailto:aaron.costa@deh.sccgov.org).

Sincerely,

  
\_\_\_\_\_  
Jim Blamey  
Director

  
\_\_\_\_\_  
Addressee representing RP

9.15.16  
Date

cc: John Wolfenden, RWQCB ([john.wolfenden@waterboards.ca.gov](mailto:john.wolfenden@waterboards.ca.gov))  
Mark Piros, DTSC ([mpiros@dtsc.ca.gov](mailto:mpiros@dtsc.ca.gov))

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## Appendix F—Precise Plan for Project Site

Midtown Specific Plan, Policy 7.4

"Issues to be addressed ... include: coordination of circulation and access; placement and configuration of parking; and building orientation. Opportunities for coordinating parcel access (i.e., sharing driveways and minimizing curbcuts) are a key issue along Main Street."

The project at 260 S Main St combines 4 small parcels to create a project with a single access point (curb cut) along Main St. The design of the project puts retail and residential buildings at the front of the project and moves

parking to the rear. Buildings with front doors oriented to Main St create a pedestrian focused Main St that fulfills the intent of the Midtown Specific Plan. Two alleyways parallel to Main St allow for future adjacent development to access Main St without creating additional curb cuts.



Circulation and Access

Sections below start on Page 4-12 of the Specific Plan:

"Circulation Policy 4.13 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."

The project at 260 S Main St provides for extra wide open sidewalk along Main St for pedestrian travel. Including in the sidewalk area are bike racks, benches and street trees. The establishment of street facing commercial further encourages foot traffic along Main St.

Specific Plan Policy 4.16:

Along Main Street (between Weller Street and Curtis Avenue) bicycle racks should be placed on every block as a part of streetscape improvements, for the joint use of all nearby tenants, rather than providing bicycle parking on a business-by-business basis."

"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 4.19: Provide on-street parking on both sides of Main Street between Weller Street and Curtis Avenue."

260 S Main St creates a mix of uses with street facing retail along Main St. and residential behind. The project meets the Zoning requirements for parking for both retail and residential uses, through on-street parking, garage parking, and shared off-street (on-site) parking.

From Page 8-17 of the Specific Plan:

2. Site Configuration and Design
- f. Access drives to parking facilities should be shared wherever feasible in order to reduce curbcuts and potential conflicts with pedestrians.
  - g. Street-facing surface parking lots are highly discouraged.

Building Orientation

From Page 8-20 of the Specific Plan:

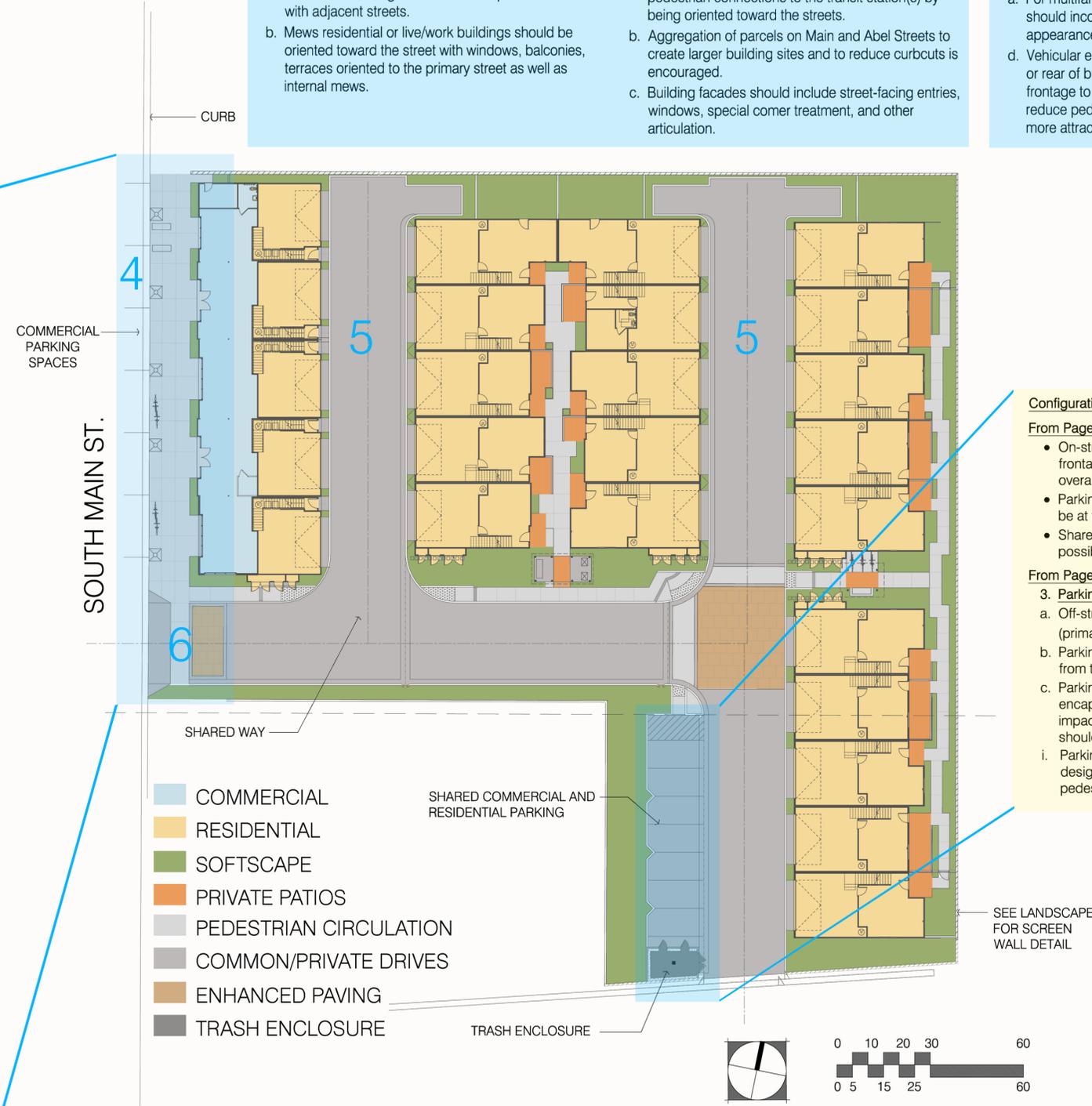
- a. Buildings should maintain a strong relationship to the street with primary building entrances oriented toward the street. Building mass should be parallel or on axis with adjacent streets.
- b. Mews residential or live/work buildings should be oriented toward the street with windows, balconies, terraces oriented to the primary street as well as internal mews.

From Page 8-17 of the Specific Plan:

2. Site Configuration and Design
- a. Residential buildings should reinforce streets and pedestrian connections to the transit station(s) by being oriented toward the streets.
  - b. Aggregation of parcels on Main and Abel Streets to create larger building sites and to reduce curbcuts is encouraged.
  - c. Building facades should include street-facing entries, windows, special corner treatment, and other articulation.

From Page 8-18 of the Specific Plan:

4. Treatment of Garage Frontage in Residential and Mixed-Use Projects
- a. For multifamily projects, service alleys or auto courts should incorporate design features to improve the appearance of the alley or autocourt.
  - d. Vehicular entries to garages should be from the sides or rear of buildings and not from the primary street frontage to camouflage the garage from the streets, reduce pedestrian and vehicle conflicts, and present a more attractive primary street frontage.



Configuration of Parking

From Page 8-10 of the Specific Plan:

- On-street parking adjacent to the building's street frontage may be counted toward a development's overall parking requirement.
- Parking is prohibited in the front setback and should be at the rear of the buildings.
- Shared driveways shall be considered where ever possible to minimize curbcuts.

From Page 8-18 of the Specific Plan:

3. Parking Areas
- a. Off-street parking facilities should have limited visibility (primarily entrances) from streets and accessways.
  - b. Parking areas should be convenient yet not detract from the pedestrian nature of the area.
  - c. Parking should generally be below grade or encapsulated within buildings to reduce the visual impact. Where not feasible, surface parking lots should be located primarily behind buildings.
  - i. Parking areas within the Mixed-Use Districts should be designed in such a way to provide for a comfortable pedestrian experience.

260 S. MAIN ST.  
MILPITAS, CALIFORNIA



Architecture | Planning | Interiors

444 Spear Street, Suite 105  
San Francisco, CA 94105  
www.hunthalejones.com

t. 415-512-1300  
f. 415-288-0288

PRECISE PLAN FOR PROJECT SITE

SP2

SCALE: 1" = 20' - 0"  
DATE: 10.21.2016  
PROJECT: 317046