

## **Index of attachments for Citation Residential Project**

- A. Resolution
- B. Street Sections from the Transit Area Specific Plan
- C. VTA 'Y' Overlay Exhibit
- D. Planning Commission Staff Report 01-28-09 &  
meeting minutes
- E. Plans

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING MAJOR TENTATIVE MAP NO. MT08-0004, SITE DEVELOPMENT PERMIT NO. SD08-0002, AND CONDITIONAL USE PERMIT NO. UP08-0049 FOR THE CITATION RESIDENTIAL PROJECT LOCATED AT 1200 PIPER DRIVE**

**WHEREAS**, on June 5, 2008, an application was submitted by Michael Sullivan of SCS Development to subdivide an approximately 16-acre property into three parcels with ancillary lots for private streets, dedications for rights-of-way for public streets and a public park, and provisions for utilities for the purpose of accommodating future residential development plans; and

**WHEREAS**, the applicant also applied for a site development permit and a conditional use permit; and

**WHEREAS**, the proposed project would accommodate up to 639 dwelling units and is located within the High Density Residential with Transit Oriented Development Overlay and Site and Architectural Overlay (R3-TOD-S) Zoning district (APN: 086-32-037 through -040); and

**WHEREAS**, Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the City Council determine this project exempt pursuant to Section 15168(c)(2) of the CEQA Guidelines; and

**WHEREAS**, on January 28, 2009, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties, and recommended approval of the amendments and permits unanimously; and

**WHEREAS**, on February 17, 2009, the City Council held a noticed public hearing to consider the project and considered evidence presented by City staff, and other interested parties.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** With respect to the Site Development Permit:

a. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development in that the project follows the design guidelines and the street sections identified in the Transit Area Specific Plan. The project allows for the movement of pedestrians throughout the site.

**Section 3:** With respect to the Site Development Permit, Conditional Use Permit and Major Tentative Map:

a. The project is consistent with the Milpitas Subdivision Ordinance in that the project meets the standards for a Tentative Map.

b. The project is consistent with the Milpitas Zoning Ordinance in that the project meets the density allowed for the zoning district.

c. The project is consistent with the Milpitas General Plan in that the project meets the density allowed for in the land use designation.

d. The project is consistent with the Transit Area Specific Plan in that the project meets the allowable density and follows the design guidelines and street sections prescribed in the Plan. Where the project deviates from the Plan, findings can be made.

**Section 4:** With respect to the Conditional Use Permit:

a. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare in that those applicable standards for development will be followed.

b. The deviation from the Transit Area Specific Plan standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development in that the block with the longer length is opposite of the public park, there are many opportunities to traverse the area without having to adhere to sidewalks or have constraints such as buildings on the opposite side of the street.

c. The deviations from the Transit Area Specific Plan standard allows for a public benefit not otherwise obtainable through the strict application of the zoning standard in that the building's architecture will complement the streetscape and public park with a simple façade rather than multiple corridors.

**Section 5:** This project is exempt pursuant to CEQA Guideline Section 15168 (c)(2) (Subsequent Activities Covered by a Program Environmental Impact Report), since the proposed development, street dedications, utility provisions and other components of the project do not cause any new effects on the environment or require any new mitigation measures that were not already considered and covered by the program EIR known as the Transit Area Specific Plan, adopted on June 3, 2008, by the City Council.

**Section 6:** The City Council hereby approves Major Tentative Map. No. MT08-0004, Site Development Permit No. SD08-0002, and Conditional Use Permit No. UP08-0049 for the Citation Residential Project, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Robert Livengood, Mayor, City of Milpitas

APPROVED AS T O FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## EXHIBIT A

### CONDITIONS OF APPROVAL Citation Residential Project (MT08-0004, SD08-0002, UP08-0049)

#### General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans, sample color and materials board approved by the City Council on February 17, 2009, in accordance with these Conditions of Approval. (P)
2. Any deviation from the approved site plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)
3. Conditional Use Permit No. U08-0049 and Site Development Permit No. SD08-0002 shall become null and void if the project is not commenced per the Zoning Ordinance within 18 months from the date of approval. (P)
4. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of 18 months if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein for the Conditional Use Permit and Site Development Permit. (P)
5. Major Tentative Map No. MT08-0004 shall be effective for two years, unless a time extension is requested and approved by the City Council upon recommendation from the Planning Commission. All other extensions shall be in accordance with State law. (P)
6. PJ ACCOUNT: If at the time of application for *certificate of occupancy*, there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. LANDSCAPE: All required landscaping, as approved on the final landscape plan, shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
8. LANDSCAPE: Prior to certificate of occupancy permit issuance, all required landscaping shall be planted in place pursuant to the approved phasing plan as approved by the Planning Director or designee. (P)
9. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
10. Prior to any building permit issuance, the developer shall submit an executed petition to annex the subject property into the future Transit Area Community Facility District (CFD), and agree to pay the special taxes levied by CFD for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the Final Map recordation or prior to issuance of building permits for the first building in the project, whichever occurs first. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. (E)

11. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
  - A. Storm water connection fee is estimated to be **\$268,336** based on 16 acres @ \$16,771 per acre. The water and sewer connection fees will be calculated at the time of building plan check submittal.
  - B. Water Service Agreement(s) for water meter(s) and detector check(s).
  - C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.  
  
Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)
12. Prior to building permit issuance of each building, developer must pay all applicable development fees that are not a part of the TASP Impact fee, including but not limited to, connection fees (water, sewer and storm), plan check and inspection deposit, and 2.5% building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
13. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires within the subdivision and along project frontage, and remove related utility poles, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more, have to be undergrounded. (E)

#### **Site Development Permit:**

14. The applicant shall revise the architecture on the buildings' elevations to provide more articulation and relief from the streetscape and pedestrian corridors and other buildings, in the manner described in that certain Planning Division comment letter dated October 23, 2008. Prior to submittal of plans for any permit for grading, site improvement or building construction, the applicant shall submit plans that demonstrate such revised architecture to the satisfaction of the Planning Director or designee. (P)
15. Prior to start of any construction, the developer shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establishment of a neighborhood hotline to record and respond to neighborhood construction-related concerns. The developer shall coordinate their construction activities with other construction activities in the vicinity of this project. The developer's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)
16. Prior to issuance of building permits of each building, the developer shall pay the Transit Area Development Impact Fee. (P/E)

#### **Tentative Map**

17. Prior to issuance of any building permits, the developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)

18. At the time of final map approval, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to final map approval for the first phase of the development. (E)
19. Prior to final map approval, the developer shall obtain design approval and bond for construction of all necessary public improvements as identified below:
  - A. Piper Drive interim roadway improvement to Montague Expressway shall be designed and implemented to the satisfaction of the City Engineer or designee.
  - B. Construction of public streets "A," "B," "C" and "D" to the project boundary, including but not limited to signage and striping, street lights, curb & gutter, sidewalk, streetscape, and public utilities installation.
  - C. Installation of necessary public utilities along project frontage on Piper Drive and proposed Public Street "A," "B," "C" and "D," including but limited to water, sewer, storm, recycle water, fire hydrants and service laterals.
  - D. Dedication and construction of the proposed public park.
  - E. Undergrounding of overhead utilities along Piper Drive project frontage.

Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Milpitas standard and specification, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to building occupancy permit issuance of the first production unit. (E)

20. Prior to final map approval, the developer shall enter into a development agreement with the sub-district transit area property owners (Milpitas Station, LLC and Swenson) for all necessary public improvements as identified below:
  - A. Milpitas Boulevard frontage improvements including but not limited to, landscaped median islands from Gibraltar Drive to Montague Expressway, new curb, gutter, and sidewalk installation, roadway structural section and slurry seal of the entire street frontage, signage and striping, street lights, vehicle feed back signs, tree wells and street trees, fire hydrants, and bus stop installation. Public-Private partnerships for landscape improvements on Milpitas Boulevard along the frontage of the PG&E parcel located north of the development will also be developed.
  - B. Traffic signal installation at Milpitas Boulevard and proposed public Street "A."
  - C. Any railroad crossing improvements at Milpitas Boulevard.
  - D. Recycle Water main line installation from Gibraltar Drive intersection to the railroad crossing on Milpitas Boulevard.

- E. Piper Drive interim roadway improvement from the proposed “A” street to Montague Expressway, including but not limited to pavement restoration, signage and striping, street lights, sidewalk, and streetscape installation and, if necessary, any railroad crossing improvements.
- F. Construction of public street “A” from Milpitas Boulevard to Piper Drive, and public streets “B” and “C” to the project boundary, including but not limited to signage and striping, street lights, curb & gutter, sidewalk, streetscape, and public utilities installation.
- G. Installation of necessary public utilities along project frontage on Milpitas Boulevard, Piper Drive and proposed Public Street “A,” “B” and “C”, including but limited to water, sewer, storm, recycle water, fire hydrants and service laterals.
- H. Dedication and construction of proposed public park.
- I. Contribution or construction of the sewer project known as 11E (Upsizing of the sewer lines on Curtis Avenue).

Subject Development Agreement shall be submitted to the City for review and approval, and must be recorded prior to OR concurrent with recordation of the first Final Map for the Piper-Montague Sub-District. (E)

- 21. Prior to any building permit issuance, the developer shall record a Final Map.(E)
- 22. The tentative map and the subsequent final map(s) shall designate all common lots and easements as lettered lots or lettered easements. (E)
- 23. Prior to final map recordation, the developer shall submit to the City a digital format of the final map (AutoCAD format). All parcel maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
- 24. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. (E)
- 25. Prior to final map recordation, the developer shall vacate the existing easements that are not needed and relocate/abandon the existing private/public utilities to the city satisfaction. (E)
- 26. Prior to or concurrent with recordation of the first Final Map for the project, developer shall dedicate Lot “J” to the City in fee, as public park land. (E)
- 27. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The developer shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information. (E)
- 28. Developer shall make changes as noted on Engineering Services Exhibit “T” (dated 12/3/2008) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)
- 29. Prior to recordation of final map, the applicant shall revise Sheet C-01 to reflect allowable open space areas for the purpose of being consistent with the Transit Area Specific Plan and any credits towards open space requirements. (P)

(P): Planning Division  
(E): Engineering Division

MILPITAS TRANSIT AREA SPECIFIC PLAN



- Landscaped Parkway - Montague Expressway
- Retail Mixed Use Street - Wide Sidewalks
- Retail Boulevard (with Frontage Road)
- Landscaped Setbacks on Arterial Streets, along the BART Site, and fronting parking lots
- Typical Residential Street
- Residential Parkway - McCandless Drive
- Milpitas Boulevard Extension
- Falcon Drive
- Existing Street with no change

Figure Numbers and Section Cuts for Drawings Showing Building to Street Relationship - Chapter 5

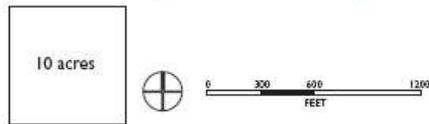


Figure 5-1  
Street Design and Character

- PEDESTRIAN R.O.W. TO INCLUDE :
  - DECIDUOUS STREET TREES
  - PEDESTRIAN STREET LIGHTS
- SETBACK AREA TO BE LANDSCAPED AND MAY HAVE LOW WALL OR FENCE AT BACK OF WALK
- PARKING ON ONE SIDE - LOCATE ON ALTERNATE SIDES OF STREET FOR DIFFERENT BLOCKS
- PERMEABLE PAVING AND/OR DECORATIVE PAVERS IN PARKING AISLE

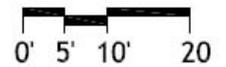
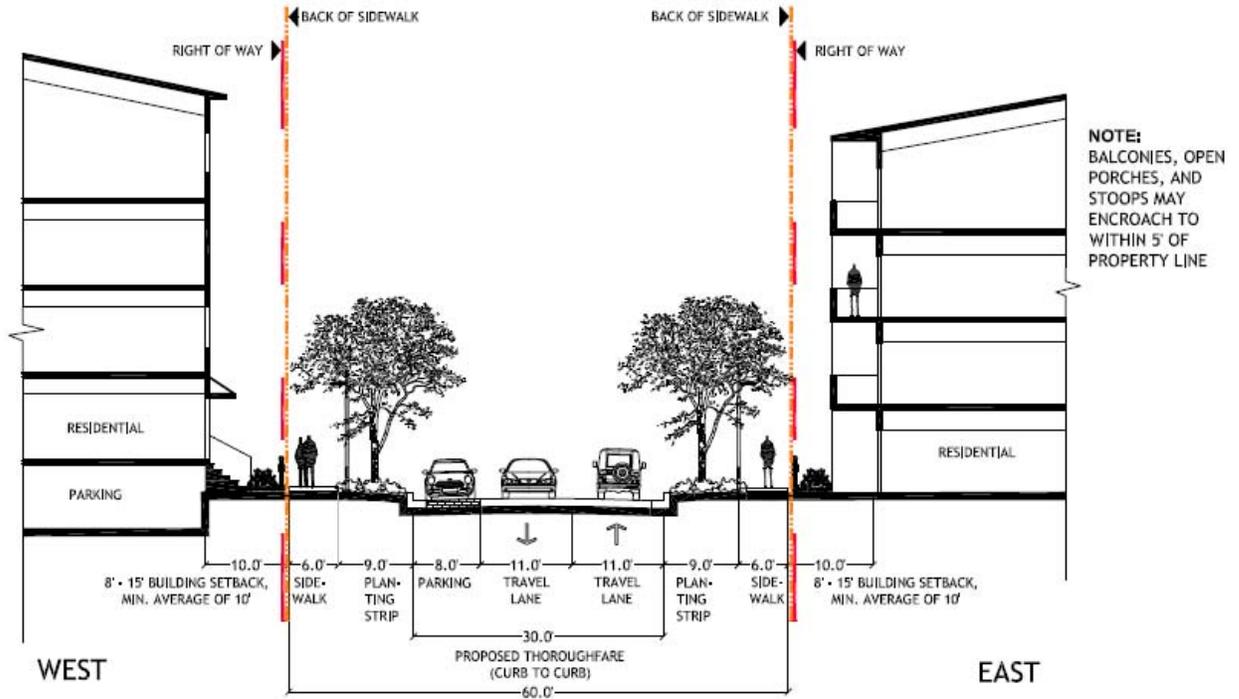


Figure 5-7  
East West Street: Piper Drive to Milpitas Boulevard

- SETBACK AREA TO BE LANDSCAPED WITH ORNAMENTAL TREES AND MAY HAVE LOW WALL OR FENCE AT BACK OF SIDEWALK
- PROPOSED PEDESTRIAN R.O.W. TO INCLUDE :
  - DECIDUOUS STREET TREES
  - PEDESTRIAN STREET LIGHTS
- PARKING ON ONE SIDE - LOCATE ON ALTERNATE SIDES OF STREET FOR DIFFERENT BLOCKS
- PERMEABLE PAVING AND/OR DECORATIVE PAVERS IN PARKING AISLE

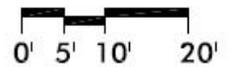
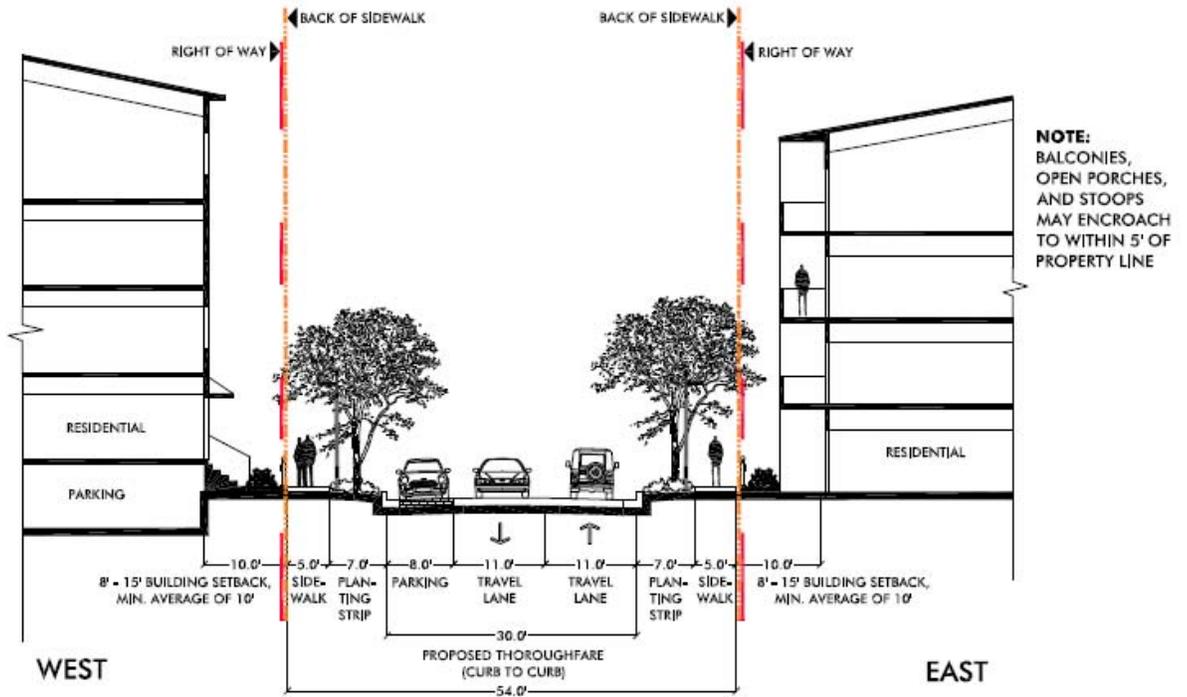
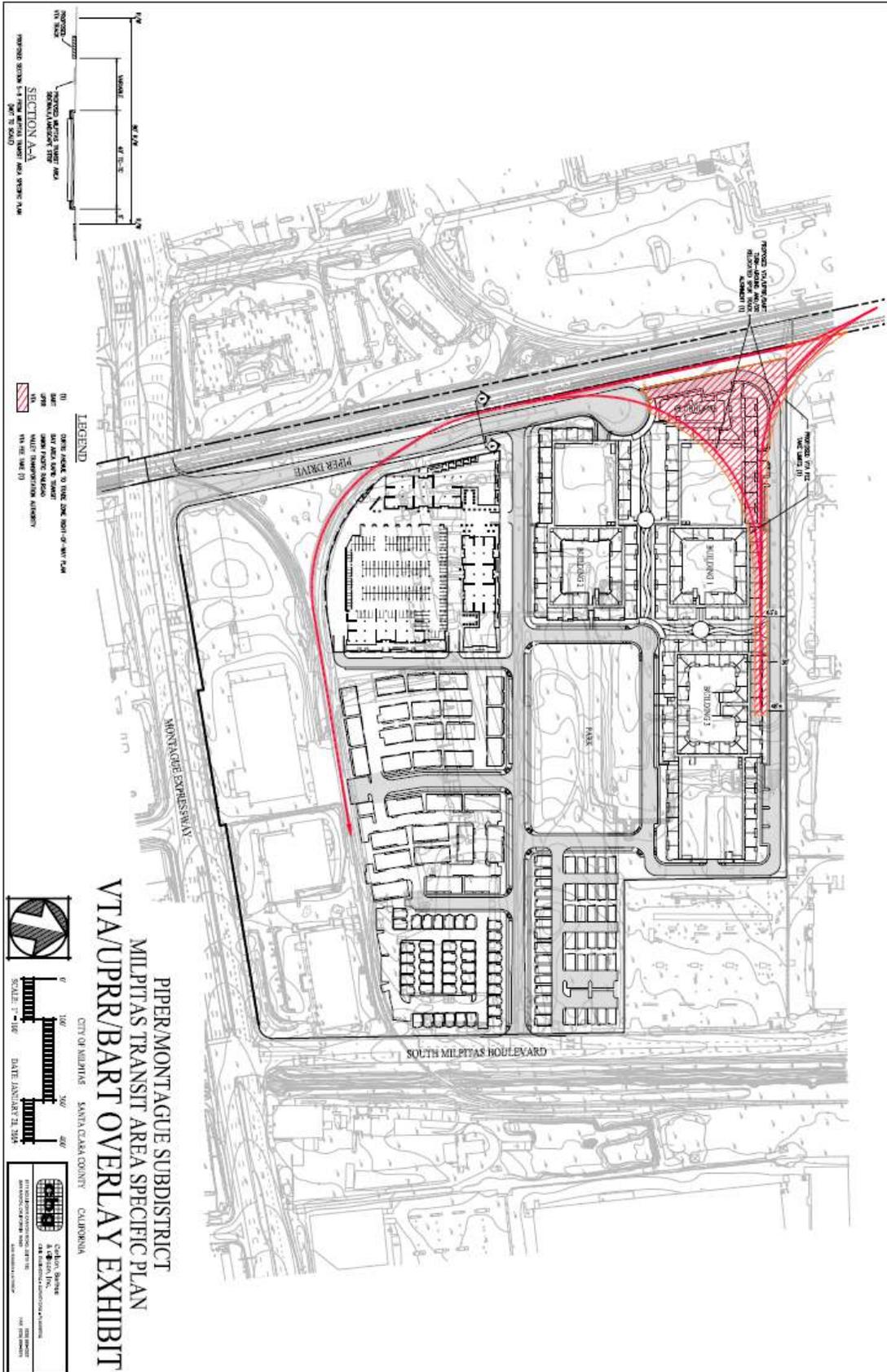


Figure 5-9  
New Local Streets



VTA Y Overlay





## MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: January 28, 2009

**APPLICATION:** Major Tentative Map No. MT08-0004, Site Development Permit No. SD08-0002, Conditional Use Permit No. UP08-0049, Citation Residential Project

**APPLICATION  
SUMMARY:**

A request to create three parcels with ancillary lots for private streets; the dedication of right-of-way for public streets and a public park; and provision for utilities for the purpose of accommodating future residential development plans. The project site could accommodate up to 639 dwelling units to be located in three buildings. The proposal includes a vesting tentative map for condominium purposes. This proposal includes development plans and architectural review for the project.

**LOCATION:** 1200 Piper Drive (APNs: 086-32-037 through -040)  
**APPLICANT:** Michael Sullivan, 404 Saratoga Ave., Suite 100, Santa Clara, CA 95050  
**OWNER:** SCS Development, 404 Saratoga Ave., Suite 100, Santa Clara, CA 95050

**RECOMMENDATION:** **Staff recommends that the Planning Commission:**  
**1. Close the public hearing following public testimony; and**  
**2. Adopt Resolution No. 08-069 recommending the City Council approve the project subject to conditions of approval.**

**PROJECT DATA:**

General Plan/  
 Zoning Designation: Multi-family High Density/High Density Residential (R3)  
 Overlay District: Site and Architectural (-S) and Transit Oriented Development (-TOD)  
 Specific Plan: Transit Area Specific Plan (TASP)

Site Area: 16 acres

CEQA Determination: Exempt pursuant to Sections 15168(c)(2) and 15315 of the CEQA Guidelines

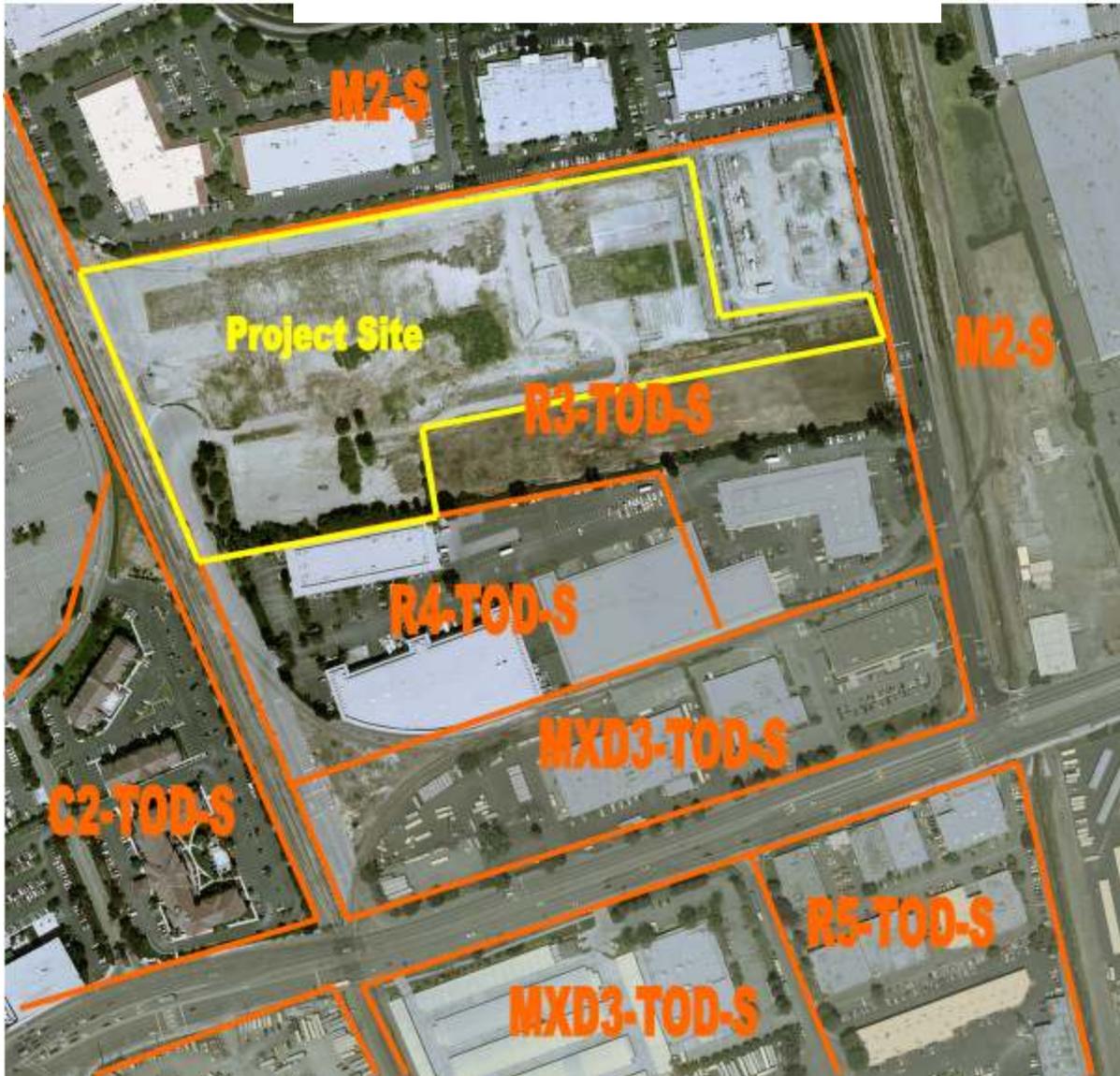
**PLANNER:** Sheldon S. Ah Sing, Senior Planner

**PJ:** 2527

**ATTACHMENTS:** A. Resolution No. 08-069  
 B. Transit Area Specific Plan Street Sections

C. VTA proposal for "Y" turnaround  
Plans

# LOCATION MAP



No scale

## **BACKGROUND**

On June 3, 2008, the City Council adopted the Transit Area Specific Plan. The Plan encompasses 437 acres and promotes the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office space and industrial. The plan includes development standards, goals and policies guiding development within the plan area. Because of the physical characteristics of the area, including major streets, railroads and creeks, the plan also established sub-districts with specific goals and policies to accommodate those unique characteristics.

The proposed project is within the Piper-Montague Sub-District of the Transit Area Specific Plan. The sub-district is located near the future BART station and the Great Mall, although separated by Montague Expressway and rail tracks respectively. For the sub-district, the TASP envisioned high density residential neighborhoods near transit and shopping. In addition, the plan proposed two smaller urban parks for the sub-district, a public street to connect Piper Drive and Milpitas Boulevard and a street to link the new public road and Montague.

On June 5, 2008, Michael Sullivan of SCS Development submitted an application to create a vesting tentative map and Site Development Permit for the purposes of developing 639 dwelling units in three "Texas-wrap" buildings. The plans also include site development plans, including building layout, architectural design and condominium plans. Since the project does include a tentative map, both the tentative map and the site development permit require a recommendation by the Planning Commission to the City Council. The application is submitted pursuant to Title XI, Chapter 10, Section 57, for the Site Development Permit review of the site and architecture and Title XI, Chapter 1, Section 4 of Municipal Code for tentative maps, because it is a subdivision for 639 condos on three lots. In addition, a Conditional Use Permit is submitted to allow the reduction in certain setback requirements in accordance with the provisions of the Specific Plan and as a requirement for the condominium map request.

City staff is concurrently reviewing two other adjacent development proposals by other developers within the same sub-district as the subject project. Sheet TM-02 of the plans (see accompanying plans) illustrates for reference, the proposed build out by the three developers.

## **PROJECT DESCRIPTION**

### ***Site and surrounding uses***

The site contains 16 acres and is located near the intersection of Montague Expressway and Piper Drive. The project site is zoned High Density Residential (R4). The entire project site has Site and Architectural (-S) and Transit Oriented Development Overlays (-TOD) focusing on design and treatment of projects near transit nodes. Surrounding the subject property are developed parcels. East of the subject site includes a PG&E electrical substation and Milpitas Boulevard beyond. To the north of the project site are buildings on industrially zoned properties. To the south of the project site include industrial buildings on high density residentially zoned properties. To the west of the subject site includes Piper Drive, the future BART alignment and the Great Mall. A vicinity map of the subject site location is included on page 2 for reference.

**Figure 1**  
**Piper-Montague Sub-district**



The overall development concept submitted by the three developers includes a single three-acre park located in the middle of the sub-district along the proposed east-west public street. The proposed park is surrounded by a public road loop connecting to the east-west road. The proposed park is commensurate in size with the original two-park concept. The concept was reviewed and endorsed by the Parks, Recreation and Cultural Resources Commission and approved by the City Council with their approval of the master tentative map for the Milpitas Station project located in the southeast portion of the sub-district on October 21, 2008.

A railroad turnaround (known as the “Y”) is currently located near the southern end of Piper Drive. The Valley Transportation Authority (VTA) has stated that the “Y” tracks would need to be relocated as part of the Bay Area Rapid Transit (BART) extension. VTA has identified two possible locations for the “Y”; one within the project site and the second further north in Fremont. Their preferred location is within the project site (refer to Attachment C) but VTA has not made any offers to purchase the site from SCS Development. The spur track that crosses South Milpitas Boulevard will remain as long as Union Pacific has customers to service along that track.

### ***Tract map***

The project proposes to subdivide the 16 acre subject property into three parcels for future high density residential development. A vesting condominium map is proposed for the subdivision of airspace of the project for 639 units. The project also includes the dedication of right-of-way for new public roads and 1.4 acres for the proposed public park. Private lots include private streets to service the

development. The plans also include rough grading and utility locations. The table below demonstrates the parcel size and number of dwelling units that could be developed on each parcel.

**Table 1**  
**Parcel Statistics**

<b>Parcel</b>	<b>Acreage</b>	<b>Number of units</b>
1	3.52	207
2	3.06	184
3	3.48	248
Total	10.06	639

The remaining six acres of the project site are included as emergency vehicle access, private drives, landscaping, a clubhouse, public park, private pocket park, public streets and 0.54 acres will be transferred to the Milpitas Station development.

#### Off site improvements

The project includes interim improvements to Piper Drive, which is the project's main entry. The improvements include a new sidewalk along the east side of Piper from the new east-west public street to Montague Expressway. The sidewalk would traverse two rail spurs, which are infrequently used. In addition, a marked crossing would be installed so pedestrians can cross Piper to get to the "pork chop" and onto existing sidewalk along Montague's north side leading towards the Great Mall. In addition, the project's proponents are proposing a new curb and gutter and fence along the west side of Piper.

#### ***Site Development Permit***

The property includes a Site and Architectural Overlay as a part of its land use designation. All proposed development in the overlay district is considered in Section 57.03, Site Development and Minor Site Development Permits, of the City's Zoning Ordinance. The Site Development Permit considers the site layout, the compliance with various development standards and the architecture of the buildings.

#### Site Layout

The project site is accessible from Piper Drive, an existing north-south street that begins one block south where it intersects with Montague Expressway and terminates at the subject site as a cul-de-sac. A new private loop road begins at the cul-de-sac of Piper Drive and provides access to Building 1 (via the north side) and Building 3 (via the east side) and terminates at the new public road adjacent to the park on the east side of the project site. The site would also be accessible from Milpitas Boulevard via a new east-west public street.

A three-party agreement is necessary for the timely development of streets, utilities and park areas, since the sub-district includes three developers. Each developer has possession of areas that would ultimately become public right-of-way with utilities, and a park. It is unrealistic that all three projects would develop within the same timeframe. It is expected that the developers would have an arrangement were the utilities, streets and parks would be constructed while the first development is under construction. The details of reimbursement and contributions would be within the agreement.

Each parcel is proposed to include a building with dwelling units wrapped around a courtyard and a multi-level parking garage. Landscaped corridors, which can also be used for emergency vehicle access, are situated between Buildings 1 and 2 (oriented east-west) and Buildings 2 and 3 (oriented north-south). These landscaped corridors provide pedestrian access to the public between Piper Drive, the private loop road and the proposed public park. It is also envisioned that access would be made to the industrial properties to the north via a gate where the north-south paseo crosses the private road.

### Development Standards

Table 2 summarizes the key development standards for the project.

**Table 2**  
**Citation Project Development Summary**

	<b>Street Setback (back of sidewalk)</b>	<b>Other Street Setbacks</b>	<b>Distance between buildings</b>	<b>Height</b>	<b>Block Dimension</b>
Building 1	NA	10'	40' min	52'8"	480'
Building 2	8' min-12' avg	10'	40' min	52'8"	480'
Building 3	8' min	10'	40' min	52'8"	550'

### Street Setbacks

The Transit Area Specific Plan includes specific design criteria for existing and new streets within the development, which include the width of the street, width of sidewalks, parking lane dimensions, street trees and landscaping and minimum setbacks to the buildings from the back of the sidewalk or curb. Any major modifications to the street sections as proposed by the specific plan may be modified by the Planning Commission. Specifically, the pertinent sections in the specific plan are Figures 5-6, 5-7, and 5-9. See Attachment B for reference. The project as proposed substantially conforms to the street section dimensions.

### Other Street Setbacks

When a street section is not provided, the Transit Area Specific Plan indicates an 8-15 foot setback from the back of the sidewalk to the proposed building for elevations along a street. The project includes a private street or drive along the western, northern and eastern boundary. The project as proposed substantially conforms to the setback.

### Height

The maximum building height in the zone is 75 feet. The project is proposing approximately 53 feet, which conforms to the height limit.

### Block Dimension

The Transit Area Specific Plan indicates a 500 foot maximum distance between publicly accessible paths of travel for a block. Building 3 of the project does not conform because the proposed dimension is 550 feet between the landscaped pedestrian corridor and the private roadway. This modification can be evaluated by the Planning Commission in their review of the project with a Conditional Use Permit to determine whether the modification is justified. See the Conditional Use Permit section of this report for further analysis.

Parking

Table 3 demonstrates the project's compliance with the parking standards for the zoning district.

**Table 3**  
**Project Compliance with Parking**

	<b>Number of Units</b>	<b>Parking Required</b>	<b>Spaces Required</b>
<b>Building 1</b>			
1BR	24	1.2 per unit	29
2BR	147	1.6 per unit	235
3BR	36	1.6 per unit	58
Guest		15% of required	48
<b><i>Subtotal required</i></b>			<b><i>370</i></b>
<b><i>Subtotal provided</i></b>			<b><i>379</i></b>
<b>Building 2</b>			
1BR	24	1.2 per unit	29
2BR	140	1.6 per unit	224
3BR	20	1.6 per unit	32
Guest		15% of required	43
<b><i>Subtotal required</i></b>			<b><i>328</i></b>
<b><i>Subtotal provided</i></b>			<b><i>330</i></b>
<b>Building 3</b>			
1BR	96	1.2 per unit	115
2BR	152	1.6 per unit	243
Guest		15% of required	54
<b><i>Subtotal required</i></b>			<b><i>412</i></b>
<b><i>Subtotal provided</i></b>			<b><i>417</i></b>
<b>GRAND TOTAL REQUIRED</b>			<b>1,110</b>
<b>GRAND TOTAL PROVIDED</b>			<b>1,126</b>

All but 30 parking spaces are provided within multi-story parking structures. Nine of the spaces provided for Building 1 are provided as perpendicular spaces off the private loop road. Twenty-one of the provided spaces for Building 3 are provided either as perpendicular spaces off the private road or parallel spaces on the north side of the public loop road adjacent to the public park. Building 3 is the only building that would rely on any required parking to be provided on the street. According to the plans, the resident parking would be located within the parking structures, while the guest parking would be located on surface streets and the first level of the garage. The project as proposed demonstrates compliance with the parking requirements of the Transit Area Specific Plan.

Bicycle Parking

The project provides 160 bicycle spaces for residents within a bicycle room on the first level of the parking structure, and will provide 55 bicycle spaces for guests on the street. The project as proposed complies with the requirement for bicycle parking.

### Architecture and Massing

The project incorporates high density in multiple buildings with its units “wrapped” around either a courtyard or a multi-level parking structure. Sheets A-03 through A-05 illustrates the typical layout of each floor in the buildings and the relationship of the units to the common areas of the project within each building envelope. One of the advantages of the “wrap” design high density projects is that the lower level has habitable space instead of a garage as “podium” projects.

The four-story project exhibits Mediterranean style architecture with a mixture of arches, rounded towers at the corners and barrel tile roofing. The elevations include a stucco finish, with a fairly uniform fenestration. The upper floor includes windows with faux shutters or awnings as decorative features. In addition, some of the upper levels include balconies. While the proposal includes some architectural relief in that there are some pop-outs, height variation and articulation, more can be offered. The Specific Plan includes design guidelines for development within the Transit Area. Staff is recommending as a condition of approval that the applicant work with staff in creating more articulation and ensuring that the architecture is not “flat” and provides some relief in conjunction with landscaping and the streetscape and for the project to be substantially consistent with the design guidelines.

### Landscaping and lighting

The project provides a combination of soft and hardscape in both public and private areas. See sheets L-1 through L-10 of the plans for more detail.

#### Public areas

Areas along the public streets include seven to nine feet of landscaping strips in addition to the required setbacks to buildings. Bisecting the setback and landscaping strips are five to six foot sidewalks. Each of the landscaping areas provides a complementing mixture of lawns, shrubs and trees.

#### Private areas

Private areas include paseos and the private loop road, and a pocket park, which are all publicly accessible spaces. The courtyards in the middle of the buildings are not publicly accessible. The paseos vary in width from 35 to 80 feet and each includes meandering pathways down the center. A combination of lawn, shrubs and trees define the space. A sidewalk wraps the inner side of the private loop street. On either side of the street proposed are trees and shrubbery. A pocket park is proposed at the southeastern portion of the project when the private street and the public road around the public park intersect. The pocket park would include a specimen oak tree, a rose garden and a trellis. Each building includes a courtyard, which would include a water feature (Building 3 has a swimming pool proposed) and a combination of lawn, shrubs and trees with areas for seating. Each of these areas includes enhanced paving materials and details to accent pathways and crossings where appropriate.

#### Lighting

Sheet L-2 demonstrates the lighting plan for the project. Each of the public and private areas will be adequately lit and yet not overly so much to disturb the residents.

***Conditional Use Permit***

Exceptions to Specific Plan

Exceptions to the development standards within the Transit Area Specific Plan may be approved by the Planning Commission upon review of a Conditional Use Permit in accordance with Section 57. In addition to the required findings for a conditional use permit, two additional findings must be made by the Planning Commission:

The deviation from the Transit Area Specific Plan standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development; and

The deviations from the Transit Area Specific Plan standard allows for a public benefit not otherwise obtainable through the strict application of the zoning standard.

The project’s proponent is requesting a deviation from the “block dimension” requirement. The Transit Area Specific Plan envisioned blocks not to exceed 500 feet in length to promote pedestrian activity and connectivity without having people forced to walk long “corridors” between publicly accessible areas. The project proposes a block dimension of 550 feet for Building 3, which is opposite of the proposed public park. Staff’s position is that with the proposed landscaping and revised architectural plans that include additional articulation along the elevations the project will meet the overall design intent of the specific plan because it will create an attractive streetscape. In addition, since the block is opposite of the public park, there are many opportunities to traverse the area without having to adhere to sidewalks or have constraints such as buildings on the opposite side of the street.

Tentative Map

According to Section 4.01-5, all requests for a condominium tentative map require the approval of a Conditional Use Permit.

**ADOPTED PLANS AND ORDINANCES CONSISTENCY**

***General Plan***

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

**Table 4**  
**General Plan Consistency**

Policy	Consistency Finding
<i>2.a.1-25: Require development in the Transit Area to conform to the adopted design guidelines and requirements contained in the Transit Area Plan.</i>	Consistent. The project as proposed and conditioned conforms to the street layout, street sections, density and land use.

***Zoning Ordinance***

The site includes 16 acres of High Density Residential-Transit Oriented Development (R3-TOD) (21 min/40 max units per acre). The project is consistent with the City's Zoning Map. Other development standards, including density, are described in the Transit Area Specific Plan section below.

***Subdivision Ordinance***

The project is consistent with the provisions in Title XI, Chapter 1, Section 4, Tentative Maps of the City's Municipal Code regarding the form, content and dedications of the tract map. The proposal includes the dedication of land for a public park and for the purpose of creating a public street. Tentative Tract Maps require a recommendation from the Planning Commission in the form of a resolution to the City Council for their ultimate approval.

***Transit Area Specific Plan*****Overall compliance**

The proposed project's land use, street layout and street sections are consistent with the Transit Area Specific Plan's Piper-Montague sub-district. The concept for the single park substantially conforms to the Specific Plan. Providing a larger central park would allow for more effective programming for the public park.

**Density**

On all sites throughout the Transit Area, densities can be averaged over an individual project which covers multiple parcels or over separate projects; provided that legal instruments are recorded for individual parcels to ensure that the minimum and maximum densities established by the plan are met. Overall, for the sub-district, as proposed the three projects are within the density range specified in the specific plan.

The tentative map provides for the eventual development up 639 dwelling units for the project site. Based on the maximum density requirements, the project is within the range of density allowed for the site.

**Design Guidelines**

The design guidelines include both general design guidelines and specific standards to guide future development within the Transit Area. These design guidelines cover site planning, building design and landscaping and lighting.

In general, the project substantially conforms to the design guidelines. The project will need to be well articulated to break up building mass. Variations in floor level, facades, architectural details and finishes that break up the appearance of a large building will need to be employed.

**Parks and open space**

Within the Transit Area, parks are required at a ratio of 3.5 acres per 1,000 people, with at least two of those acres being publicly accessible. Land dedicated for public parks or trails will fulfill the park land requirements. In addition, 20 percent of a landscape buffer area along a street or public right-of-way count towards the public park requirements, when it includes trails or wide sidewalks connected to an overall pedestrian/bike circulation network. The balance of the required park area can be privately

accessible open space under certain conditions. A Transit Area Impact Fee is levied for all projects within the Transit Area Specific Plan to pay for the necessary physical improvements to implement the goals of the plan. This fee includes the park in-lieu fee. A credit against the fee can be given to the developer when a project dedicates land or improves park areas.

Based on the open space ratio, the project is required to provide 3.3 acres of publicly accessible park land and 2.45 acres of private open space for a total of 5.75 acres of park land. The following table demonstrates the amount of park land provided by the project.

**Table 5**  
**Park Land Provided by Project**

<b>Public/Publicly Accessible Open Space</b>	<b>Acreage</b>
Public Park	1.4
Landscape Buffer (20%)	0.53
<b><i>Subtotal</i></b>	<b><i>1.93</i></b>
<b>Private Open Space</b>	
Balconies	1
Pocket park	0.1
Courtyards	1.1
Private recreational area	0.4
<b><i>Subtotal</i></b>	<b><i>2.6</i></b>

As a recommended condition of approval, sheet C-01 of the plans will need to be revised to reflect the table above.

#### **ENVIRONMENTAL REVIEW**

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is exempt from further environmental review pursuant to Section 15168(c)(2) of the CEQA Guidelines because staff determined that the project is consistent with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008 by the City Council.

#### **PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

#### **CONCLUSION**

The proposed project is consistent with the Transit Area Specific Plan in terms of land use, density, and street layout. The consolidation of the two smaller parks into one central park provides for more flexibility in recreational programming. As conditioned the project will be consistent with the adopted Design Guidelines for the area.

#### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission adopt Resolution No. 08-069 recommending approval of Major Tentative Map No. MT08-0004, Site Development Permit No. SD08-

0002, and Conditional Use Permit No. UP08-0049, Citation Project to the City Council, subject to the attached Conditions of Approval.

*Attachments:*

- A. Resolution No. 08-069
- B. Transit Area Specific Plan street sections
- C. VTA proposal for "Y" Turnaround  
Plans

**4. MAJOR TENTATIVE  
MAP NO. MT08-0004,  
SITE DEVELOPMENT  
PERMIT NO. SD08-0002,  
CONDITIONAL USE  
PERMIT NO. UP08-0049**

Sheldon Ah Sing, Senior Planner, presented a request to create three parcels with ancillary lots for private streets; the dedication of right-of-way for public streets and a public park; and provision for utilities for the purpose of accommodating future residential development plans. The project site could accommodate up to 639 dwelling units to be located in three buildings. The proposal includes a vesting tentative map for condominium purposes. This proposal includes development plans and architectural review for the project. The project is located at 1200 Piper Drive. Mr. Ah Sing recommended to Adopt Resolution No. 08-069 approving the project to the City Council subject to conditions of approval.

Chair Williams asked if any other company utilities the rail service. Mr. Lindsay, stated there are two companies using the rail service. Chair Williams asked if the rail service was active or diminishing. Mr. Lindsay stated that VTA has completed the purchase and right-of-way necessary for the BART system.

Commissioner Ciardella asked how many parking spaces for the 639 units. Mr. Ah Sing stated there will be about 1,126 spaces provided plus 15% guest parking.

Vice-Chair Mandal asked if a school will be in that area. Mr. Ah Sing stated the school will be in the McCandless area. Vice-Chair Mandal asked who will fund the school. Mr. Lindsay stated the City will work cooperatively with the school district to look at school district funding.

**Charles McKay, Citation Homes Central**, stated it has been a pleasure working with staff and the other homeowners on this project. He stated in regards to the Y-situation, the alternate disposition of the existing spur line, as long as there are any paying customers on any freight line Union Pacific will continue to keep that property in use. It is likely within the near term the actual freight service may disappear, however, the line would still be available for turnaround.

Commissioner Ciardella asked if there will be a sandbox in the area. Mr. McKay stated that the large public park area will have playground equipment for kids. Commissioner Ciardella also asked about the plaza fountain. He is concerned about security and the liability of children falling in. Mr. McKay stated the fountain would not have any water at the bottom.

Commissioner Tabladillo asked if there will be a course around the park where people could walk or do exercises. Mr. McKay stated he is working with the Parks and Recreation Department and Planning to come up with a park concept that is amenity rich and activity rich. Commissioner Tabladillo asked if there is a wall along the Union Pacific railroad so it is safe enough for individuals not to have the urge to play around the train tracks. Mr. McKay stated they will provide fencing that can be attractive and provide necessary security for individuals not playing on the railroad tracks.

Chair Williams stated that he noticed the traffic is pretty aggressive on Piper Drive. He asked Mr. McKay if he has looked at the traffic pattern in that area. Mr. McKay said that the project is designed to facilitate walking instead of driving to the Great Mall.

Commissioner Sandhu asked when the project would start. Mr. McKay stated that the project would probably start in 2010.

Chair Williams opened the public hearing.

**Russ Winslow, 905 Montague Expwy**, stated he does have a commercial business where he does use chemicals. He does have air and water pollution permits, onsite hazardous waste treatment permits, and a few other things. He is concerned that he is within a 1,000 feet. With the air pollution permits a school would not be permitted in that area or a daycare center.

Chair Williams wanted to make sure proper notification was sent. Mr. Ah Sing stated staff uses a permit tracking system that includes geographic information and ownership information that they receive from the County.

**Motion** to close the public hearing.

M/S: Mandal, Tabladillo

AYES: 6

NOES: 0

ABSENT: 1 (Alex Galang)

ABSTAIN: 0

**Motion** to Adopt Resolution No. 08-069 approving the project to the City Council subject to conditions of approval.

M/S: Tabladillo, Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Alex Galang)

ABSTAIN: 0