RESOLUTION NO. _____

A JOINT RESOLUTION OF THE MILPITAS REDEVELOPMENT AGENCY AND THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING A MITIGATED NEGATIVE DECLARATION, MAKING FINDINGS AND AUTHORIZING THE EXECUTION OF AN OWNER PARTICIPATION AGREEMENT AND RELATED DOCUMENTS FOR THE McCANDLESS MIXED USED PROJECT (INTEGRAL COMMUNITIES McCANDLESS, LLC)

WHEREAS, by Resolution No. 192 adopted in 1976, the Agency established the Milpitas Redevelopment Project Area No. 1 ("Project Area") and adopted a redevelopment plan for the Project Area (as thereafter amended, the "Redevelopment Plan"); and

WHEREAS, on October 29, 2007, an application was submitted by Integral Communities McCandless, LLC, a California limited liability corporation ("Developer"), for the future development of a mixed-use residential and commercial development at a 23-acre site located at 1315 McCandless Drive (APN: 086-33-092 through -095, 086-33-098 through -099 and 086-33-101) in Milpitas, California ("Property"). The Property is located within the Transit Area Specific Plan Area and is zoned for Retail High Density Mixed Use (MXD2) and Multi-Family High Density (R3) with Site and Architectural Overlay (-S) and Transit Overlay (-TOD) Zoning Use; and

WHEREAS, pursuant to the scope of the Environmental Impact Report (State Clearinghouse No. 2006032091) certified and adopted by the City Council in June 2008 for developments within the Transit Area Specific Plan Area and the provisions of the Transit Area Specific Plan itself, additional environmental review is required for developments like the Project that seek additional density entitlements beyond the 50 dwelling units per gross acre maximum; and

WHEREAS, accordingly, a Mitigated Negative Declaration (No. EA08-0005) was publicly circulated for 20 days from November 21, 2008 through December 10, 2008, that analyzed the impacts on transportation, public services, land use and other pertinent areas of a mixed-use development with a residential dwelling component of 1,573 units and a commercial retail component of approximately 92,000 square feet, some of which shall be restricted to grocery store use, together with the provision of parking, open space and other amenities; and

WHEREAS, since the initial submittal, the Developer has revised its development proposal to include a reduced residential unit count of 1,328 rental units, while maintaining the size of the proposed commercial retail space. Accordingly, an addendum to the Mitigated Negative Declaration to reflect this reduced unit count was prepared; and

WHEREAS, in furtherance of the purposes of redevelopment law, the Agency and the Developer have negotiated the terms of and desire to entire into an Owner Participation Agreement ("OPA") governing the development of the Property and the provision of Agency financial assistance; and

WHEREAS, under the OPA, the Developer has proposed to restrict fifteen percent (15%) of the total residential units (199 residential units if all 1,328 residential units are constructed) to moderate-income persons, families and households; and

WHEREAS, the Developer and Agency staff have provided evidence that it will not be economically feasible to develop the project at the proposed level income-targeting and affordability without the provision of financial assistance from the Agency, and despite good faith efforts on the part of the Developer, no other reasonable means of private or commercial financing is reasonably available to finance the Project at such affordability and income levels; and

WHEREAS, therefore, the Agency is willing to financially assist with the proposed development in exchange for the Developer's agreement to record covenants against the Property causing at least fifteen percent (15%) of the project residential units to be, and to remain for the requisite time period, housing available to moderate income purposes; and

WHEREAS, pursuant to Section 33445 of the Health and Safety Code, the Agency is also authorized, with the consent of the City Council and upon the making of certain findings, to pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvement which is publicly owned either within or without the project area, and therefore is willing to provide financial assistance for the payment of public infrastructure and improvement costs associated with the Developer's project; and

WHEREAS, on July 14, 2010, the Milpitas Planning Commission held a duly noticed public hearing and found that the proposed development set forth in the OPA conforms to the requirements of the Transit Area Specific Plan and recommended its approval by the Agency Board.

NOW, THEREFORE, the Board of the Redevelopment Agency and the City Council of the City of Milpitas hereby find, determine, and resolve as follows:

1. The Board and the City Council have considered the full record before them, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. Because the proposed use for the Property is similar to the use that was approved previously under the California Environmental Quality Act and no new environmental impacts were identified in the initial study, the mitigated negative declaration per Sections 15074 and15168 of the California Environmental Quality Act is adopted, as set forth in the attached Exhibit A.

3. The development of the Property in accordance with the OPA would assist in the elimination of blight in the Project Area, facilitate the development of housing for moderate-income households, further the goals of the Redevelopment Plan, and be consistent with the implementation plan adopted in connection therewith. In particular, the OPA would accelerate development of the Redevelopment Project Area, reduce uncertainties in planning and provide for the orderly rehabilitation of the Property, and reimburse the Developer for certain costs, thereby making development of the property economically feasible. The development of the Property pursuant to the OPA is also consistent with the Milpitas General Plan, the Milpitas Zoning Ordinance and the Transit Area Specific Plan.

4. As to affordable housing assistance, the Agency finds that:

   a. The provision of the Agency financial assistance is necessary to make the Project financially feasible and affordable to moderate-income households; and

   b. It will not be economically feasible to develop the Project at the proposed level of income-targeting and affordability without such financial assistance; and

   c. Despite good faith efforts on the part of Developer, no other reasonable means of private or commercial financing is reasonably available to finance the project at such affordability and income levels.

5. As to the provision of Agency financial assistance for public facilities, improvements and infrastructure, the Agency finds that such payments are of primary benefit to the Redevelopment Project Area or the immediate area in which the proposed project is located, that no other reasonable means of financing such public facilities, improvements and infrastructure are available to the community, and that the payment of such funds and the provision of Agency financial assistance will assist in the elimination of blighting conditions inside the project area and will help provide housing for moderate-income persons, and is consistent with the

redevelopment implementation plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

6. The Agency Executive Director is hereby authorized to execute the OPA, the Memorandum of the OPA, and the Regulatory Agreement and Declaration of Restrictive Covenants, each in the forms included as attachments to the OPA, and attached hereto as Exhibit B, and other related documents in the form or in substantially the same form as on file with the Agency Secretary, and to take all actions necessary to effectuate the actions set forth therein, including but not limited to the recordation of documents in the Official Records of the County of Santa Clara and the disbursements of Agency financial assistance.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, Agency Secretary/City Clerk

APPROVED:

_____
Robert Livengood, Chair/Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, Agency Counsel/City Attorney

EXHIBIT A

CEQA ADDENDUM

Mitigated Negative Declaration No. EA08-0005 for McCandless Mixed Use Project

May 26, 2010

City of Milpitas
Planning Division
455 E. Calaveras Boulevard
Milpitas, CA 95008

Staff contact: Sheldon S. Ah Sing, Senior Planner, (408) 586.3278

SUMMARY OF THIS DOCUMENT

This addendum assesses the environmental impact(s) of changing the scope of the development in association with the project located at 1315 McCandless Dr. (APNs: 086-33-092 through -095, 086-33-098 through -099 and 086-33-101), as required by the California Environmental Quality Act (CEQA) (California Public Resources Code 21000 et seq.) and in compliance with the State CEQA Guidelines (14 California Code of Regulations 15000 et seq.).

The City of Milpitas, as the lead agency under CEQA, will consider the potential environmental impacts of changing the scope of the project listed above when it considers the project in its entirety. This Addendum is an informational document, intended to be used in the planning and decision making process as provided for under Section 15164 of the CEQA Guidelines. The Addendum does not recommend approval or denial of the proposed refinements to the Project. The fundamental conclusion of this addendum is that the proposed changes to the Project will not result in new significant impacts nor substantially increase the severity of previously disclosed impacts beyond those already identified in the Mitigated Negative Declaration EA08-0005. Thus, a subsequent or supplemental Negative Declaration need not be prepared.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under CEQA Guidelines Section 15164, an addendum to an adopted negative declaration shall be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent negative declaration or Environmental Impact Report (EIR) have occurred. Under Section 15162, the lead agency shall prepare an (EIR) if there are any new significant environmental effects associated with the refined project. With respect to the Project, the refinements are only minor technical changes and do not result in any new significant environmental effect(s); therefore, the refined Project does not require an EIR. Therefore, this addendum analyzes the Project refinements as required under the CEQA Guidelines, Sections 15162 and 15164.

BACKGROUND

Mitigated Negative Declaration No. EA08-0005 was drafted to analyze the potential environmental impacts of future development resulting from an additional 25% of density than the maximum allowed for the site. In accordance with the Transit Area Specific Plan, the site

may obtain a 25% density bonus beyond the 50 dwelling units per gross acre maximum if additional environmental review is undertaken in conjunction with the approval of a Conditional Use Permit. The Negative Declaration analyzed the impacts on transportation, public services, land use and other pertinent areas.

The project analyzed in the Negative Declaration proposed 1,573 dwelling units. For the project to reach that density amount, the project needed to receive a transfer in density from an adjacent park site to the south (zoned residential), the transit density bonus (25%) and the affordable housing density bonus (10%). In addition, the Negative Declaration originally indicated that the project was proposing approximately 75,000 square feet of commercial.

UPDATED PROJECT DESCRIPTION

In recent months the project scope has changed. The project would have benefited from the transfer of density from an adjacent park site. The City's Redevelopment Agency was to purchase the 4.81 acre site and with the terms of the proposed Development Agreement, the development rights (density) would have been transferred to the project site. The Agency is not purchasing the site and thus the density will not be transferred.

- The project proposes 1,328 dwelling units and approximately 92,000 square feet of commercial space.

PROJECT IMPACTS

The additional commercial space is within the maximum range of what was expected to be developed on the site when the original EIR was analyzed and certified for the Transit Area Specific Plan. It is not expected that any environmental impacts would occur beyond what was already identified in the EIR.

PLANNING AND DEVELOPMENT DEPARTMENT FINDINGS

It is the finding of the Planning Division that the previous environmental document as herein amended may be used to fulfill the environmental review requirements of the current project. Because the current project meets the conditions for the application of State CEQA Guidelines Section 15164, preparation of a new EIR or Negative Declaration is not required for the issue areas discussed above. Discretionary processing of the Integral Mixed Use Project may now proceed with the understanding that any substantial changes in the proposal may be subject to further environmental review.

McCandless Mixed Use Project

Application No.
SZ07-0004
MT08-0002

Initial Study

City of Milpitas

November 2008

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APPENDICES

APPENDIX A Noise and Vibration Study
APPENDIX B Tree Survey

The environmental factors checked below would be potentially affected by this project, as indicated by the checklist on the following pages.

☐	Aesthetics	☐	Agricultural Resources	☐	Air Quality
☐	Biological Resources	☐	Cultural Resources	☐	Geology and Soils
☐	Hazards and Hazardous Materials	☐	Hydrology and Water Quality	☐	Land Use and Planning
☐	Mineral Resources	☐	Noise	☐	Population and Housing
☐	Public Services	☐	Recreation	☐	Transportation and Traffic
☐	Utilities and Service Systems	☐	Mandatory Findings of Significance		

DETERMINATION: (To be completed by lead agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☑ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all the potentially significant effects (1) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable legal standards, and (2) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature Date

Printed Name For

SECTION 1 INTRODUCTION AND PURPOSE

This Initial Study of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations 15000 et. seq.), and the regulations and policies of the City of Milpitas. This Initial Study evaluates the potential environmental impacts which might reasonably be anticipated to result from the development of 1,573 residential units and 92,757 square feet of retail in nine freestanding buildings ranging from four to six stories in height, and identifies mitigation measures included in the project.

A Program Environmental Impact Report (EIR) was adopted on June of 2008 for the Transit Area Specific Plan (TASP) in which this project is located. The document is intended to "tier off" of that EIR, meaning that many of the potential impacts of this project have already been analyzed under the previous EIR. The project is being reviewed in concept only. Details of the design and architecture will be reviewed at a later date.

The City of Milpitas is the Lead Agency under CEQA and has prepared this Initial Study to address the impacts of implementing the proposed project.

SECTION 2 PROJECT INFORMATION

2.1 PROJECT TITLE

McCandless Mixed Use Project

2.2 PROJECT LOCATION

The proposed project is located at 1315-1595 and 1320-1590 McCandless Drive (APNs 086-33-092, 093, 094. 095, 098, 099, and 101) at the intersection of McCandless Drive and Great Mall Parkway, directly East of Penitencia Creek.

2.3 PROPERTY OWNER/PROPONENT

Mission West Properties, L.P. 11
10050 Bandley Drive
Cupertino, CA 95014

Integral Communities McCandless LLC
160 Newport Center Drive, Suite 240
Newport Beach, CA 92625

2.4 LEAD AGENCY CONTACT

City of Milpitas
Sheldon S. Ah Sing, Senior Planner
City of Milpitas Planning Division
455 E. Calaveras Boulevard
Milpitas, CA 95035

2.5 ASSESSOR'S PARCEL NUMBERS

086-33-092
086-33-093
086-33-094

086-33-095
086-33-098
086-33-099
086-33-101

2.6 ZONING DISTRICT, GENERAL PLAN AND SPECIFIC PLAN DESIGNATIONS

Zoning District: *Residential – Retail High Density Mixed Use*
High Density Transit Oriented Residential
General Plan Designation: *Residential – Retail High Density Mixed Use*
High Density Transit Oriented Residential

Specific Plan Designation: *Transit Area--Retail High Density Mixed Use*
High Density Transit Oriented Residential

Figure 2.1-1: Regional Map

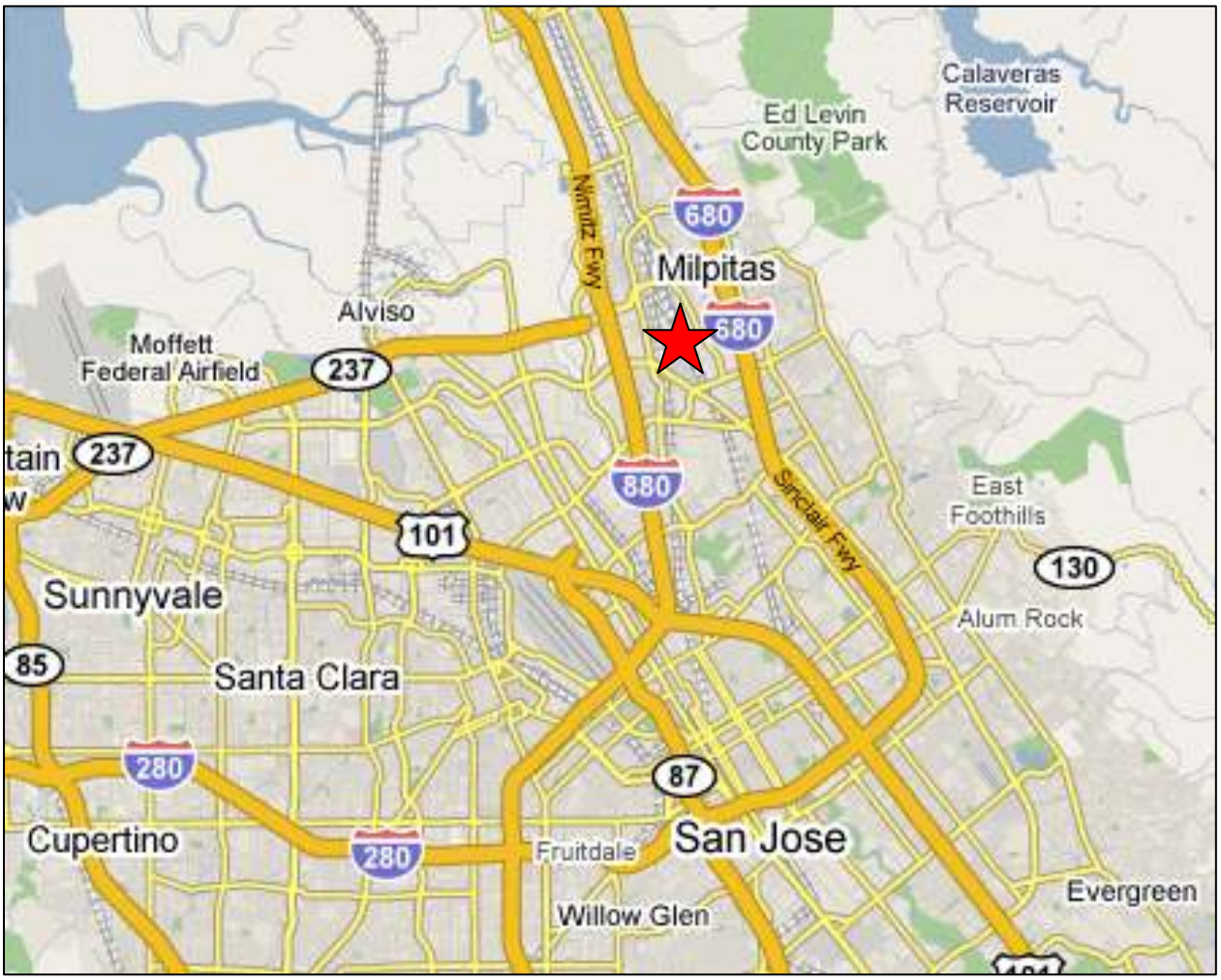


Figure 2.1-2: Vicinity Map

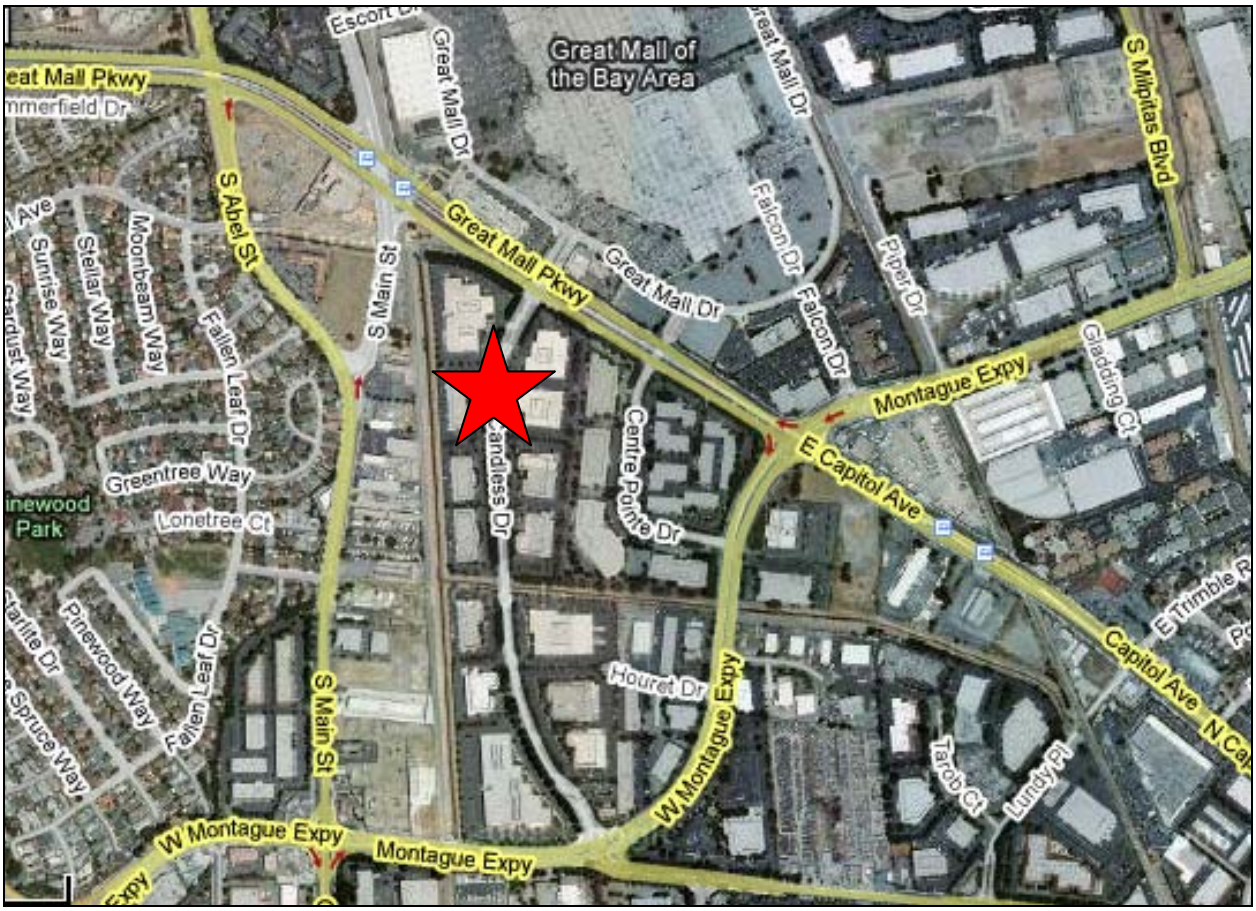


Figure 2.1-3: Aerial

ENTITLEMENT

The application includes a Tentative Subdivision Map, dedication of an urban plaza and public trail, existing street section improvements and a new local street. The project also requires a Conditional Use Permit in accordance with the Specific Plan because the project contemplates a 25% transit oriented density bonus over the maximum density that is allowed under the Plan. When a project utilizes the density bonus, additional environmental review is required, thus the focus of this environmental document. No Site Development Permit review for architecture is a part of this application. It is anticipated that review will occur subsequently and independently of this effort. A Developer Agreement is also being drafted; however, it only impacts financial aspects of the project.

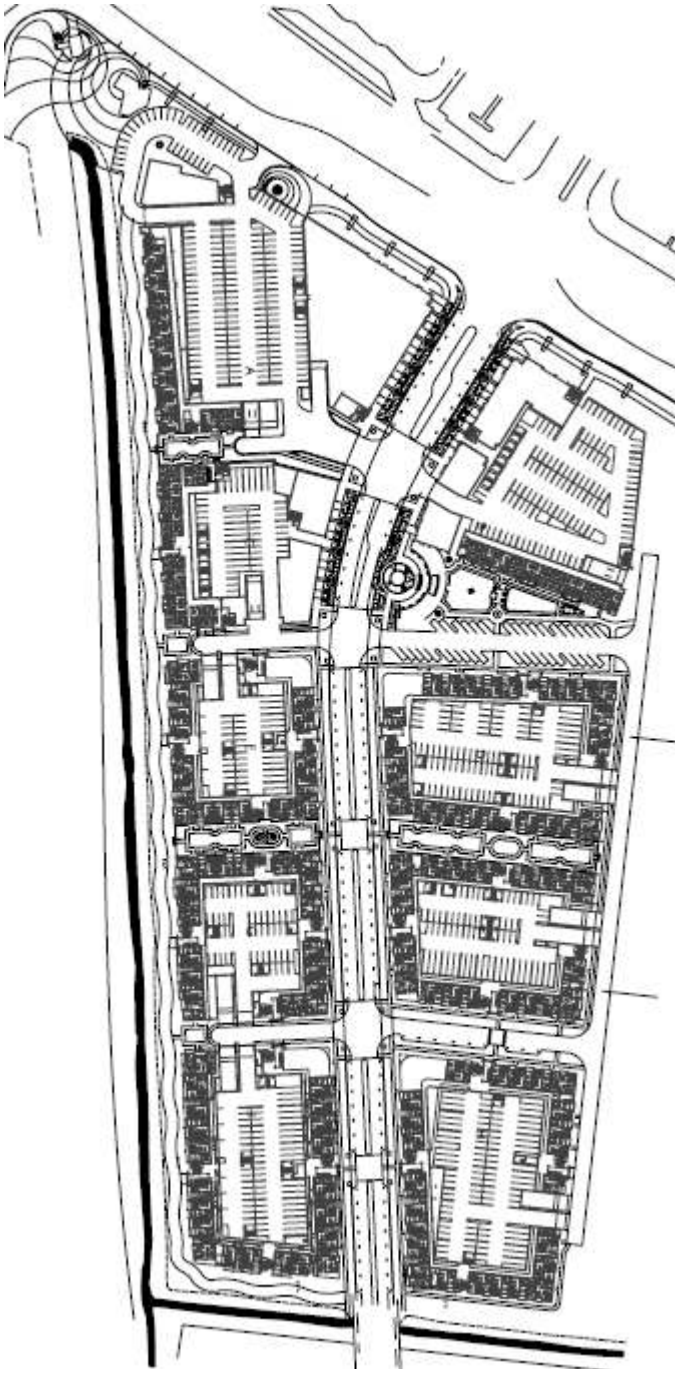
SITE DEVELOPMENT

A site plan of the proposed project is shown on Figure 3.1-1. The proposal includes up to 1,573 residential units in multiple buildings, including up to 75,838 square feet of commercial/office space. Because no architectural review is a part of this application, no specific building mass and elevations are depicted or evaluated.

Site Access

The site lies at the intersection of Great Mall Parkway and McCandless Drive. McCandless Drive bisects the site and terminates at the Penetencia Creek Channel. Smaller, collector streets also intersect the project site. Access to the project would be taken mainly off of McCandless Drive, with secondary access from the collector streets.

Figure3.1-1: Site Plan



SECTION 4 ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. Measures that are standard and required by the City or law are categorized as "Standard Measures." Measures that are required to reduce significant impacts to a less than significant level are categorized as "Mitigation Measures."

4.1 AESTHETICS

Setting

As shown on the aerial photograph, the project site is currently developed with eight buildings. The existing buildings are low-rise office/industrial buildings built in 1997. The site is within a fully developed area in Milpitas. The topography is flat and views of the eastern foothills are partially blocked by existing office structures in the area. Visually, the surrounding area is predominantly low density office uses. North of the site is the Great Mall which is a regional shopping mall. To the south and east lies more industrial area with similar low-rise buildings, also located in the Transit Area Plan. Immediately adjacent to the site, to the west, are the Union Pacific Railroad tracks, and beyond that lies small scale commercial and residential uses.

The project site is not located near a scenic highway or scenic vista.

Environmental Checklist and Discussion of Impacts

AESTHETICS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	2,3
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	2,3
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☒	☐	☐	2
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1

The proposed project would demolish the existing buildings, grade and prepare the 24-acre the site for three mixed use buildings and five residential buildings. The mass, elevations and height are not being analyzed with this project, although it is expected that the project would be around six stories high.

Landscaping trees are proposed on the perimeter and some locations within landscape medians on the site where they do not conflict with the proposed stormwater treatment.

Four hundred and fifty-five trees are located on the site. Of these trees, 254 are protected under the City's Tree Ordinance. Some of them are mature and established, and line McCandless Drive. Approximately 194 of the trees on site are proposed to be removed with this project. The health and structure of the trees is identified in Appendix B, the project Tree Survey. *The tree survey was conducted prior to the submittal of the project. Since that time, city staff has worked with the applicant to reduce the amount of proposed removed trees.* The removal of these trees could substantially degrade the existing visual character or quality of the site and its surroundings (**Significant Impact)**.

The project includes buildings that will be a mixture of commercial and residential uses and buildings that are solely residential. The mixed use buildings (A-C) are located near the intersection of Great Mall Parkway and McCandless Drive. These uses will generate light during normal business hours as well as nighttime hours for the residences. This is an increase of light from the existing industrial uses; however, the ambient lighting from the window of a residence will not adversely affect nighttime views in the area. The materials of the new buildings have the potential to cause a new source of glare. The design review process will ensure that there is no adverse affect to daytime views in the area.

Mitigation Measures

AES-1: The City of Milpitas has a Tree Ordinance that identifies a tree replacement program for the removal of trees. All City ordinances will be enforced on the project. The applicant will either replace the trees with like and kind trees or pay an in-lieu fee to the City of the value of the removed trees. An Arborist Report on the species, health and structure of the trees shall be submitted with the Site Development Permit application.

Conclusion

While the proposed buildings are expected to be substantially taller than the existing buildings, the Transit Area Specific Plan established new height limits for the area. It is anticipated that when the area redevelops, buildings will vary in height up to twelve stories and in some cases 20 stories with the approval of a Conditional Use Permit.

The removal of trees will be mitigated pursuant to Mitigation Measure AES-1.

The materials proposed for the building will be reviewed during subsequent design review to ensure no adverse affects.

The proposed project would not result in significant, adverse visual or aesthetic impacts.
[Less Than Significant Impact with Mitigation Incorporated]

4.2 AGRICULTURAL RESOURCES

Setting

According to the Santa Clara County Important Farmland 2006 Map, the project site is designated *Urban and Built-Up Land. Urban and Built-Up Land* is defined as residential land with a density of at least six units per 10-acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment, and water control structures. Currently, the project site is not used for agricultural purposes.

Environmental Checklist and Discussion of Impacts

AGRICULTURAL RESOURCES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1,5
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1,3
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒	1,3

The project site is not currently used for agricultural purposes and is not designated as farmland of any type.

Conclusion

The proposed project would not result in impacts to agricultural resources. **[No Impact]**

4.3 AIR QUALITY

Setting

Local and Regional Air Quality

The project site is within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

Both the U.S. Environmental Protection Agency and the California Air Resources Board have established ambient air quality standards for common pollutants. These ambient air quality standards are levels of contaminants which represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called "criteria" pollutants because the health and other effects of each pollutant are described in criteria documents. The major criteria pollutants are ozone, carbon monoxide, nitrogen dioxide (NOx) sulfur dioxide, and particulate matter.

Toxic Air Contaminants (TACs) are another group of pollutants of concern. There are many different types of TACs, with varying degrees of toxicity. Cars and trucks release at least forty different toxic air contaminants. The most important, in terms of health risk, are diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Public exposure to TACs can result from emissions from normal operations, as well as accidental releases.

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, childcare centers, retirement homes, convalescent homes, hospitals and medical clinics. There are no close receptors in close proximity to the project site.

Environmental Checklist and Discussion of Impacts

AIR QUALITY					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1,6
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1,13

AIR QUALITY					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	3,13
4) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	1,4
5) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐	1

TASP EIR

The BAAQMD generally does not recommend a detailed air quality analysis for projects generating less than 2,000 vehicle trips per day, unless warranted by the specific nature of the project setting. Under the TASP EIR, 7,000 housing units were anticipated to be built. Based on the density calculations for this site, 1,573 units can be built. Under the TASP EIR, vehicle trips for this type of project were anticipated at eight trips per day. While this would generate a total of 12,584 vehicle trips, the site would be credited the vehicle trips generated by the industrial uses. The TASP EIR already analyzed this potential impact. This project is within the scope of the EIR for the TASP.

Long-Term Air Quality Impacts

BAAQMD has established thresholds for what would be considered a significant addition to existing air pollution. According to the BAAQMD CEQA guidelines, a project that generates more than 80 pounds per day of ozone precursors (i.e., reactive organic gases (ROG) and nitrogen oxides) is considered to have a potentially significant impact on regional air quality. On an annual basis, the threshold is 15 tons per year.

For a project that does not individually have significant operational air quality impacts, the determination of a significant cumulative air quality impact is based upon an evaluation of the consistency of the project with the local general plan and of the general plan with the most current Clean Air Plan (CAP).

Short-Term Air Quality Impacts

Construction-related air quality impacts associated from the proposed project would be the result of dust creating activities and exhaust emissions of construction equipment. Due to

the negligible amount and short duration of these impacts, all are considered to be less than significant, except for the activities generating dust.

Construction activities such as demolition, excavation and grading operations and construction vehicles driving over and wind blowing over exposed earth, generate fugitive particulate matter that will affect local and regional air quality. The effects of these dust generating activities will be increased dustfall and locally elevated levels of PM_{10} downwind of construction activity. Construction dust also has the potential for creating a nuisance at nearby properties. If uncontrolled, dust generated by construction activities could be a significant impact.

Impacts Identified under the Transit Area Specific Plan EIR

1. New development under the proposed Plan could increase population and vehicle miles traveled in the area at a rate greater than that assumed in regional air quality planning and therefore conflict with the implementation of the Bay Area Ozone Strategy. **(Significant and Unavoidable)**

The City Council adopted a Statement of Overriding Considerations related to Air Quality Impact 1.

Mitigation Measures:

AIR-1: The proposed project includes the following mitigation measures to reduce project construction impacts to a less than significant level.

- BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall be implemented during construction of the proposed project:
    - Water all active construction areas at least twice daily.
    - Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard.
    - Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.
    - Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
    - Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
    - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
    - Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
    - Install sandbags or other effective erosion control measures to prevent silt runoff to public roadways.
    - Replant vegetation in disturbed areas as quickly as possible.

Conclusion

While the development under the entire Transit Area Specific Plan Plan could increase population and vehicle miles traveled in the area at a rate greater than that assumed in regional air quality planning and therefore conflict with the implementation of the Bay Area Ozone Strategy, the proposed project would not result in significant long-term regional or local air quality impacts**.** Short-term air quality impacts associated with construction would be reduced to less than significant levels with the implementation of standard construction measures and mitigation measures. **[Less Than Significant Impact with Mitigation]**

4.4 BIOLOGICAL RESOURCES

Existing Habitat

The site contains 455 trees. These trees range in age, health, size and species. A tree report was prepared when the project was initially submitted to the City and is included in this study as Appendix B. *The tree survey was conducted prior to the submittal of the project. Since that time, city staff has worked with the applicant to reduce the amount of proposed removed trees.*

Environmental Checklist and Discussion of Impacts

BIOLOGICAL RESOURCES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐	1,2
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	1,2
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	1,2

BIOLOGICAL RESOURCES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☒	☐	1,2
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐	1,2,4
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	1,2

Impacts to Mature Trees

Four hundred and fifty-five trees are located on the site. Approximately 194 trees are proposed to be removed with this project. Of those to be removed, 30 are on an adjacent property; however, it is necessary to remove those trees for the development of a roadway that is consistent with the Transit Area Specific Plan. Some of these trees are mature and established, and line McCandless Drive. The health and structure of the trees is identified in Appendix B, the project Tree Survey. *The tree survey was conducted prior to the submittal of the project. Since that time, city staff has worked with the applicant to reduce the amount of proposed removed trees.* The removal of these trees could affect wildlife habitat. (**Significant Impact)**.

<u>Mitigation Measures</u>

BIO-1: The City of Milpitas has a Tree Ordinance that identifies a tree replacement program for the removal of trees. All City ordinances will be enforced on the project. The applicant will either replace the trees with like and kind trees or pay an in-lieu fee to the City of the value of the removed trees.

BIO-2: As a Condition of Approval, the project applicants will be required to conduct a raptor study to determine the nesting period of any birds making habitat within the trees

proposed for removal. The removal of the trees will not be permitted within the nesting period of the birds.

BIO-3: As a Condition of approval, the project applicants will be required to supply an Arborist Report identifying the species, health and structure of each tree proposed for removal.

4.4.2 Conclusion

The removal of trees will be mitigated pursuant to Mitigation Measure BIO-1 and BIO-3. The protection of wildlife species making habitat within the trees will by mitigated pursuant to Mitigation Measure BIO-2

The proposed project would not result in significant, adverse visual or aesthetic impacts. **[Less Than Significant Impact with Mitigation Incorporated]**

4.5 CULTURAL RESOURCES

Setting

Prehistoric Context
The Milpitas area was likely settled by Native Americans between 12,000 and 6,000 years ago. Penutian-speaking peoples migrated into central California around 4,500 years ago and were firmly settled around San Francisco Bay by 1,500 years ago. The descendants of the native groups who lived between the Carquinez Strait and the Monterey area prefer to be called Ohlone, although they are often referred to by the name of their linguistic group, Costanoan.

Milpitas is within the ethnographic territory of the Alson tribe of Ohlone, who occupied the area near the mouth of the Coyote Creek. One factor which likely increased traffic through the Milpitas area was the presence of a deposit of cinnabar (later famous as the mines of New Almaden) within Tamyen territory, which increased traffic through the early Milpitas area. The cinnabar (used as body paint) stimulated considerable trade. The deposits were known over much of northern California, and parties from as far away as the Columbia River journeyed to Costanoan territory to obtain it.

Trade for other items—such as wooden bows, salt, and pine nuts—also brought many visitors to the Tamyen territories. Wooden bows and salt from the bay were traded to the Plains Miwok. The words “salt” and “bow” were also taken from the Costanoan. Two notable Costanoan village sites lay within the city limits of Milpitas. One, a huge shell mound near the present-day Elmwood Rehabilitation Center, was discovered in 1949 and dates back to the eighteenth century. The other, on the site of the Alviso Adobe near the corner of Calaveras and Piedmont, is at least 3,000 years old and is one of only a handful of archaeological sites in California with such a long history of continuous occupation. Neither of these sites is within the Transit Area Specific Plan boundary.

Historic Context
During the Spanish expeditions of the late 1700s, several missions were founded in the San Francisco Bay Area. After the Mexican government took over the vast missions lands and distributed them among the Californios (Mexican pioneers living in California), the brief but lively "rancho" period began. The land in modern-day Milpitas was divided between the 6,352.9-acre Rancho Rincon de los Esteros, the 4,457.66-acre Rancho Milpitas and the 4,394- acre Rancho Tularcitos.

In the 1850s, large numbers of Americans from the East, Canadians, Irish, Chileans, British, Germans and more arrived to farm the fertile lands of Milpitas. They brought with them their own agricultural traditions, adopting them to the local soils and climate. They continued to raise cattle and horses, but they also conducted dairy operations and planted new crops, such as potatoes. In 1850, they introduced a new means of irrigation, artesian wells, which made possible the cultivation of new vegetable crops and berries. The early settlers farmed the land and set up many businesses on a section of what was then called Mission Road, which by the late 20th century became known as the "Midtown" district. The Midtown area, the oldest part of Milpitas, has few remaining historic residences and was the only commercial district that existed before 1945. Midtown is situated along Main and Abel Streets and is bordered by Montague Expressway in the south and Weller Street in the north.

Milpitas was named after Alviso's rancho by Joseph Weller when the first U.S. Post Office was opened on Main Street. However many locals had taken to calling the collection of buildings at the crossroads along Penitencia Creek "Penitencia," after the small Catholic

building next to the creek that was used by the Spanish Padres to hear confession by the nearby natives. The word Milpitas is from the word "Milpa" which is derived from a Mexican Indian word for "place
were maize grows."

In the early 1900s, Milpitas served as a popular rest stop for travelers on the old Oakland–San Jose Highway. At the intersection of that road with the Milpitas-Alviso Road, Smith's Corners, patrons for a century before becoming a restaurant in 2001; it still stands. In the 1920s, one of America's earliest "fast food" chain restaurants, "The Fat Boy," opened nearby but was demolished in 1985.

When the Ford Motor Assembly Plant came to the southern edge of town, San José indicated interest in making it part of that city. The local inhabitants fought back. The City of Milpitas was the result of a defensive incorporation on January 26, 1954. Later, in 1960, San José attempted to incorporate the city again, but was met with a very lopsided defeat in the election.

The Minute Man was added to the city's seal and flag following this campaign. Ironically, Ford Corporation called the facility the San Jose Ford Motor Assembly Plant. The automobile manufacturing era in Milpitas lasted little more than a quarter century. After the plant closed it remained largely unused for nearly fifteen years. Today, it is the Great Mall of the Bay Area.

The primary impact that could occur would be disturbance of cultural resources during grading and/or development of property, subsequent to adoption of the Specific Plan. Based on the NWIC's evaluation of the environmental setting and features associated with known sites, there is a reasonable possibility of uncovering and identifying additional archaeological deposits in the Planning Area. Existing national, state and local laws as well as policies contained in the General Plan, Midtown Plan, and this Specific Plan would reduce these potential impacts on historic and archaeological resources to less than significant levels. Paleontological resources have been documented to occur in Milpitas in the vicinity of the Planning Area. There is the potential to encounter unidentified fossils during construction of new development in the Transit Area, as Pleistocene alluvium is considered sensitive for vertebrate fossils, which are considered a significant paleontological resource. Since fossils are considered to be nonrenewable resources, such impacts would be considered significant.

The property is located in an area of moderate to low archaeological sensitivity. The prehistoric and historic records search revealed that no prehistoric or historic era sites have been recorded in or adjacent to the project parcel.

There is no evidence of recorded historic and/or prehistoric archaeological resources inside or immediately adjacent to the project area.

<u>Environmental Checklist and Discussion of Impacts</u>

CULTURAL RESOURCES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)

Would the project: 1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☒	☐	1,3
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☒	☐	1,3
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	1,3
4) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐	1,3

Buried Prehistoric and Historic Resources

Based on relevant archaeological reports for the immediate area, the proposed project should have no effect on archaeological resources. The proposed project does include disturbance of native soils for trenching, site grading and other construction activities. Although it is unlikely that buried cultural materials would be encountered, standard conditions for excavation activities would be applied to the project as described below.

Mitigation Measure: The proposed project shall implement the following standard measure:

CUL-1: As required by County ordinance, this project has incorporated the following guidelines. - Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Conclusion

The proposed project, with the implementation of the above mitigation measure, would not result in significant impacts to cultural resources. **[Less Than Significant Impact with Mitigation]**

4.6 GEOLOGY AND SOILS

Setting

On-Site Geologic Conditions

The Planning Area is located approximately eight miles from the shoreline of San Francisco Bay. The Project Area slopes gently (less than 2 percent) west towards Lower Penitencia Creek, which runs south to north along the western boundary of the Project Area. Sediments underlying the Project Area are Quarternary alluvial soils that consist of interlayered, poorly sorted gravel, sand, silt, and clay. The composition and consistency of alluvial soils varies laterally and vertically over small distances and depths. The thickness of the alluvial soils ranges from 1,000 feet at the western edge of the city, along the bay margin, to zero at the base of the foothills of the Diablo Range to the east (City of Milpitas, 2002). Sediments underlying the Project Area consist of fine- to coarse-grained alluvial deposits, and groundwater is located less than 20 feet below the ground surface (ESA, 2005).

Seismicity

The San Francisco Bay Area is one of the most seismically active regions in the United States. Santa Clara County is classified as Zone 4, the most seismically active zone. An earthquake of moderate to high magnitude generated within the San Francisco Bay region could cause considerable ground shaking at the project site. The degree of shaking is dependent on the magnitude of the event, the distance to its zone of rupture and local geologic conditions.

Several active faults have the potential to cause widespread damage to the City of Milpitas. The California State Mining and Geology Board classifies active faults as faults that have had surface displacement within Holocene time (within the last 11,000 years). The primary active faults in the region are the Hayward and San Andreas faults. The Hayward Fault trends northwest approximately 2 miles east of the planning area; the San Andreas Fault trends northwest through the Santa Cruz Mountains approximately 13 miles to the west. The Hayward Fault was identified by the USGS Working Group on California Earthquake Probabilities as the most likely (27 percent chance) to experience a 6.7 or higher magnitude earthquake by 2032. Also of particular importance to the City of Milpitas is the Calaveras Fault, which trends northwest through Calaveras Reservoir approximately 4 miles east of the project site.

Liquefaction

Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. Liquefaction can result in significant deformations. Soils most susceptible to liquefaction are loose, uniformly graded, saturated, fine-grained sands that lie close to the ground surface. The project site is located within a State of California Seismic Hazard Zone for liquefaction.[1]

Lateral Spreading

[1] http://www.abag.ca.gov/bayarea/eqmaps/liquefac/liquefac html April 23, 2008

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. The site is directly adjacent to the Penetencia Creek channel.

Environmental Checklist and Discussion of Impacts

GEOLOGY AND SOILS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☒	☐	1,10
b) Strong seismic ground shaking?	☐	☐	☒	☐	1,9,10
c) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	1,9,10
d) Landslides?	☐	☐	☒	☐	1
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1,9,10
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	1,9,10
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☒	☐	1,9,10

GEOLOGY AND SOILS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1,9,10

The project site is located in a mapped liquefaction hazard zone, and soils on the site have a moderate potential for expansion. The project site is not located within a fault rupture zone or landslide hazard zone.

The project site is located in a seismically active region. Geologic conditions on the site will require that the new buildings be designed and constructed in accordance with standard engineering techniques and Uniform Building Code guidelines for Seismic Zone 4, to avoid or minimize potential damage from seismic shaking and liquefaction on the site.

The proposed development will be designed and constructed in accordance with a design-level geotechnical investigation prepared for the site, which will identify the specific design features that will be required for the project, including site preparation, recompaction and lime treatment of subgrade solid, fill replacement and compaction, trench excavations, surface drainage, flexible pavements, slabs-on-grade and curbs, landscape retaining walls, and foundations. With implementation of recommendations in the design level geotechnical report, the project will not expose people or property to significant impacts associated with geologic or seismic conditions on site.

Conclusion

The proposed project would not result in significant, adverse geology, soils, or seismicity impacts that cannot be avoided through standard engineering and construction techniques. **[Less Than Significant Impact]**

4.7 HAZARDS AND HAZARDOUS MATERIALS

Setting

Background Information

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples of hazardous materials include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because exposure to hazardous materials above certain thresholds can result in adverse health effects on humans, as well as harm to plants and wildlife.

Site Conditions

The 15.5-acre site is currently developed with eight low-rise industrial buildings. The project site is located in a developed, office area. Surrounding land uses include office, industrial and commercial operations such as the Great Mall located to the north and office buildings to the south and east.

Potential On-Site Sources of Contamination

The site is presently used as a business park. As such, the site may have the potential for exposure to sources of contamination.

Environmental Checklist and Discussion of Impacts

HAZARDS AND HAZARDOUS MATERIALS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	1
2) 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?	☐	☐	☐	☒	1

HAZARDS AND HAZARDOUS MATERIALS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐	1
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1,3
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1

On-Site Sources of Contamination

The applicant shall ensure prior to demolition that adequate measures are taken to protect the health and safety of workers in accordance with Policies 5.20-5.22 of the Transit Area Specific Plan.

Other Hazards

The project site is not within the Santa Clara County Airport Land Use Commission (ALUC) jurisdiction, nor is it on a City designated evacuation route. The site is located near areas subject to wildfires, however the site is not located in a fire threatened community.[2]

Mitigation Measures

HAZ-1: As a Condition of Approval, should it be found that hazardous material users are located in the near vicinity, the applicant shall prepare a risk assessment to determine the potential risk of project inhabitants should there be a hazardous materials leak. Should the risk assessment identify a substantial risk, the project shall be designed to protect the inhabitants from exposure.

Conclusion

The proposed project will not result in hazardous materials impacts to workers and future users of the site. **(Less Than Significant Impact with Mitigation Measures Incorporated)**

2 Association of Bay Area Governments. (ABAG). Wildfire Hazard Maps and Information. November 2004. 8 May 2008. http://www.abag.ca.gov/bayarea/eqmaps/wildfire/.

4.8 HYDROLOGY AND WATER QUALITY

Setting

Hydrology and Flooding

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), the project site is located within Zone AO (depth 1). Zone AO is defined as the areas of 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between 1.0 and 3.0 feet. Average whole-foot depths derived from the detailed hydraulic analyses are shown within this zone on the FIRM.

Storm Drainage

The City of Milpitas owns and maintains the municipal storm drainage system in the vicinity of the project.

Water Quality

The proposed project is required to comply with Provision C.3 of the City's NPDES permit and the City's local polices and ordinances regarding urban runoff and water quality. The C.3 requirements seek to reduce water pollution by both reducing the volume of stormwater runoff and the amount of pollutants that are contained within the runoff. The methods used to achieve these objectives vary from site to site, but can include measures such as a reduction in impervious surfaces, onsite detention facilities, biofiltration swales, settlement/debris basins, etc.

Environmental Checklist and Discussion of Impacts

HYDROLOGY AND WATER QUALITY					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	1,2
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	1,2

HYDROLOGY AND WATER QUALITY					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	☐	☐	☒	☐	1,2
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	☐	☐	☒	☐	1,2
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐	1,2
6) Otherwise substantially degrade water quality?	☐	☐	☒	☐	1,2
7) 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?	☐	☐	☒	☐	1,2,10
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☒	☐	1,2,10
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	1,2,10

HYDROLOGY AND WATER QUALITY					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 10) Be subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	1,2

Drainage and Flooding

The proposed project would conform to the City flood hazard management ordinance, therefore, implementation of the project would not result in people or structures being exposed to any significant flood risk.

Impervious surfaces on the proposed project would be approximately the same as the amount of impervious surfaces that exist on the site. New landscaping and vegetated bioswales would be installed on site as part of the project, and would help to detain stormwater runoff and infiltrate excess water into the soil. This would ensure that stormwater runoff from the project site would not exceed the capacity of the existing storm drainage system, or contribute significantly to downstream flooding.

Water Quality

The project includes stormwater quality best management practices such as directing site runoff into vegetated swales in conformance with requirements in the City of Milpitas's Municipal NPDES Permit. The coverage of impervious surfaces would be more than the current condition. Vegetated swales may be located in or adjacent to trees and shrubs, but must include only vegetation consistent with their function.

Construction activities on site would temporarily generate dust, sediment, litter, oil, paint, and other pollutants that could contaminate runoff from the site.
[Significant Impact]

<u>Mitigation Measures:</u>

The following mitigation measures are included in the project to reduce water quality impacts during construction and post-construction periods to a less than significant level:

HYDRO-1.1: Prior to construction of the project, the City shall require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw waddles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage

system from construction activities. The SWPPP shall include control measures during the construction period for:

- Soil stabilization practices,
- Sediment control practices,
- Sediment tracking control practices,
- Wind erosion control practices, and
- Non-storm water management and waste management and disposal control practices.

HYDRO-1.2: Prior to issuance of a grading permit, the applicant shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.

HYDRO-1.3: The development shall comply with City of Milpitas ordinances, including erosion- and dust-control during site preparation and grading, and maintaining adjacent streets free of dirt and mud during construction.

HYDRO-1.4: The proposed development shall comply with the NPDES permit issued to the City of Milpitas.

Conclusion

The proposed project would not result in substantial adverse flooding or drainage impacts. **[Less Than Significant Impact]**

With implementation of the mitigation measures included in the project, possible impacts to water quality would be reduced to a less than significant level. **[Less Than Significant Impact with Mitigation]**

4.9 LAND USE

Setting

The site is approximately 23 acres with eight business park buildings and ancillary parking lots. The site is bisected by McCandless Drive and bounded to the north by Great Mall Parkway and bounded to the south by Penetencia Creek.

Existing Land Use Classifications

General Plan Land Use Designation

14.08 acres: Residential – Retail High Density Mixed Use
8.96 acres: High Density Transit Oriented Residential

Zoning Designation

14.08 acres: Residential – Retail High Density Mixed Use
8.96 acres: High Density Transit Oriented Residential

Specific Plan Designation

14.08 acres: Transit Area--Retail High Density Mixed Use
8.96 acres: High Density Transit Oriented Residential

Surrounding Land Uses

The existing uses on the surrounding properties are a combination of residential to the west, industrial to the south and east and commercial/retail to the north.

Environmental Checklist and Discussion of Impacts

LAND USE					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Physically divide an established community?	☐	☐	☐	☒	1,3
2) 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?	☐	☐	☒	☐	1,3

LAND USE					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	1,3

Proposed General Plan and Zoning
The project contemplates no change to the land use designations to the property.

Land Use Compatibility
The project would conform to the adopted plans, however, existing industrial uses will remain until such time that redevelopment occurs to make those properties consistent with the adopted plans.

The Transit Area Specific Plan EIR cleared 7,000 dwelling units under a Reasonable Worst Case Scenario approach to estimate the amount of residential and commercial development.

Impacts From the Project
The purpose of this environmental document is to evaluate any potential environmental impacts from the requesting a transit oriented density bonus of 25% on the maximum density allowed for the site. Only the 14.08 acres designated Residential – Retail High Density Mixed Use may use the transit oriented density bonus.

Residential

The following demonstrates the proposed density calculation for the site:

14.08 acres x 50 du/ac x 1.25 (TO bonus) = 880 dwelling units
8.96 acres x 40 x 1 = 358 dwelling units

The project also contemplates negotiating the purchase of adjacent 4.81 acres to the south of Penetencia creek zoned High Density Transit Oriented Residential, but designated Open Space in the Transit Area Specific Plan. For the purposes of calculating density, if the applicant has possession of the 4.81 acres, the applicant may use the density allocated for the subject site. The following demonstrates the proposed density calculation for the four acre site:

4.81 acres x 40 x 1 = 192 dwelling units

The applicant also proposes to include a State Density bonus for moderate affordability, equating to a 10% bonus or 143 dwelling units. In all 1,573 dwelling units are proposed for the site with 192 dwelling units contingent upon acquiring the 4.81 acres.

Commercial

In addition, the project is proposing 75,838 square feet of commercial and retail space. The Specific Plan also suggests a grocery store to be located on the project site. The applicant is in current negotiations with potential tenants.

Impacts to the Project
Landscaping is proposed along the boundaries of the project to buffer the project from surrounding uses. The eventual growth of the landscaping would complement the adjacent sites when they redevelop.

Conclusion

The proposed project's density is consistent with the overall density allowed for the site. The amount of retail is consistent with the Specific Plan and in all the proposed project would not result in significant, adverse land use impacts. **[Less Than Significant Impact]**

4.10 MINERAL RESOURCES

Setting

The site is in an urban, built up area and has been developed with industrial/office buildings since 1997.

Environmental Checklist and Discussion of Impacts

MINERAL RESOURCES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	1,3
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1,3

The project would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present within the general area. The proposed project, therefore, would not result in impacts to mineral resources.

Conclusion

The project would not result in impacts to known mineral resources. **[No Impact]**

4.11 NOISE

Setting

Noise Background

Noise is defined as unwanted sound. Noise can be disturbing or annoying because of its pitch or loudness. Pitch refers to relative frequency of vibrations, higher pitch signals sound louder to people.

A decibel (dB) is measured based on the relative amplitude of a sound. Ten on the decibel scale marks the lowest sound level that a healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis such that each 10 decibel increase is perceived as a doubling of loudness. The California A-weighted sound level, or dBA, gives greater weight to sounds to which the human ear is most sensitive.

Sensitivity to noise increases during the evening and at night because excessive noise interferes with the ability to sleep. Twenty-four hour descriptors have been developed that emphasize quiet-time noise events. The Day/Night Average Sound Level, L_{dn}, is a measure of the cumulative noise exposure in a community. It includes a 10 dB addition to noise levels from 10:00 PM to 7:00 AM to account for human sensitivity to night noise.

Applicable Noise Standard

The Environmental Quality Element of the City of Milpitas's General Plan identifies noise and land use compatibility standards for various land uses (General Plan Figure 5-G). The City establishes 55 DNL as the noise limit for public/educational land uses. Chapter 9.10 "Regulation of Noise and Vibration," of the City of Milpitas Municipal Code identifies allowable hours for construction to limit impacts to sensitive uses.

Existing Noise Environment

Based on the Figure 5-L of the General Plan (*2005 Traffic Noise Levels (dBA, CNEL) – North Santa Clara*), noise levels on the site were estimated at 75 dBA. The site is outside of the 65 dB CNEL contour for the Norman Y. Mineta San José International Airport.[3]

Noise and Vibration Study

A Noise and Vibration Study was conducted by Charles M. Salter Associates, Inc. This study analyzed the sound presence of freight rail operations, light rail operations and vehicular traffic near the project site.

Environmental Checklist and Discussion of Impacts

NOISE

[3] Airport Land Use Commission. Land Use Plan for Areas Surrounding Santa Clara County Airports. September 1992.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project result in:					
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐	1,3,11
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1,3,11
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1,3,11
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1,3,11
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1,3,11
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1,3,11

Noise Exposure Impacts to the Project

According to the noise and vibration study, the northwest corner of the site may be exposed to horn sounds from freight locomotives as they approach the grade crossing at Great Mall Parkway. Light-rail train operations on the median of Great Mall Parkway were judged to be an insignificant contributor to either noise or ground vibration.

Noise Impacts From Project Traffic

According to the noise and vibration study, traffic on Great Mall Parkway measured a Day-Night Average Sound Level (DNL) of 69 decibels.

Noise Impacts From Construction

Construction related noise would be generated from construction equipment, loading and unloading trucks, and general construction operations.

Mitigation Measures

NOI-1: Pursuant to the recommendations from the noise and vibration study, sound-rated residential windows should be installed long the western side of the project site, beginning at Great Mall Parkway and continuing south for 500 feet. The nominal sound rating of the windows should be 33 STC (Sound Transmission Class). The north side of the project should also have 33 STC sound-rated windows as well as means of fresh-air ventilation so the windows can remain closed. Furthermore, the presence of freight trains on this Union Pacific branch line should be disclosed to future residents of the project.

Conclusion

Implementation of the proposed project would not result in significant noise impacts. **[Less than Significant Impact with Mitigation Measure Incorporated]**

4.12 POPULATION AND HOUSING

Setting

The Transit Area Specific Plan includes only one occupied housing project with approximately 1,180 people. The person per household for multi-family housing in the City is 2.52 based on recent Department of Finance information. Multiplying 1,573 dwelling units by 2.52 equates to a 3,963 population for the proposed project. The Transit Area Specific Plan anticipates an additional 17,900 residents by 2030.

Environmental Checklist and Discussion of Impacts

POPULATION AND HOUSING					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	1,3
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1

Conclusion

The proposed project would not result in significant population or housing impacts. **[Less Than Significant Impact]**

4.13 PUBLIC SERVICES

Setting

Fire Service
The Milpitas Fire Department (MFD) provides full response, preparedness, and prevention services. The department's emergency response and preparedness division handles emergency incidents, safety, training, disaster preparedness and public information. The department fire prevention division handles fire plans, and permits, hazardous materials regulation, inspections and investigations.

Three fire stations are near the Transit Area: Fire station #1, just northwest of the Great Mall at Curtis and South Main streets, Station #2 located north east of the project on Yosemite and South Park Victoria, and Station #4 on Barber Lane just west of I-880. The City has automatic aid and mutual aid agreements with the cities of San Jose and Fremont.

The Transit Area Specific Plan presents unique operational issues for the MFD due to its high density residential and mixed-use structures. The increase in population, business and vehicular traffic resulting from the buildout of the area will increase the demand in service levels and has the potential to impact response times, in addition to presenting challenges to fire department vehicle access and firefighting operations. To maintain current levels of service, an increase in staffing and equipment will be necessary. A "standards-of-cover" analysis should be conducted to determine the precise impact on the department's staffing, equipment and any required facility enhancements.

Police Service
Law enforcement services in Milpitas are provided by the City of Milpitas Police Department (MPD). Additionally, the California Highway Patrol provides law enforcement services in the Planning Area, and the Transit Patrol Division of the Santa Clara County Sheriff provides contract security and law enforcement services for the Valley Transportation Authority. In 2005, the Police Department had a total of 95 sworn police officers: one chief, 21 officers in the Support Services Bureau and 73 officers in the Police Operations Bureau. In 2005, with a total population of 65,000, Milpitas had a ratio of 1.46 officers per 1,000 residents. This service ratio is within the California standards of 1.4 to 1.7 officers per 1,000 residents.

The MPD headquarters are located at 1275 N. Milpitas Boulevard, around two miles from the Transit Area. There are no known community concerns about the location, condition, size, form, or condition of the current police stations. In 2005, the MPD received 18,243 emergency calls. In 2005, the average response time to emergency calls was 3:43. The average response time to non-emergency calls was 7:09. The average response time within the City is approximately four minutes and 40 seconds. Highest priority is assigned to emergency calls where life-threatening conditions occur. The target response time for such emergency calls is three minutes. The number of overall service calls being received by the MPD is currently increasing, rising 10.7 percent between 2004 and 2005, and the department expects the number of calls to continue increasing citywide. MPD's Communications Division has adopted the following standards for dispatching:

- 9-1-1 calls shall be answered by Public Safety Dispatchers within 10 seconds at least 95 percent of the time.
- Dispatch 95 percent of calls within 60 seconds of event creation in CAD.
- Dispatch 95 percent of non-emergency calls within 30 minutes of event creation in CAD.

Most of the crime that occurs in the Planning Area is specific to the Great Mall—thefts, forgery/fraud, and stolen vehicles—and there is little violent crime. In the rest of the

Planning Area, more than half of the police-related calls are vehicle violations, traffic accidents, and theft from autos.

Parks and Schools
According to the Milpitas General Plan, the city has 161 acres of city owned parks and recreational facilities. Part of the 1,544-acre Ed Levin Regional Park is within City limits as well. Most of these parks are well outside of an accessible walking range of the Planning Area, with the exception of Parc Metro East, which is located approximately 0.1 mile north of the Planning area, and Pinewood Park, which is located 0.25 miles west of the Planning Area. Parc
Metro East is a 2-acre neighborhood park which provides playgrounds and barbeque pits. Pinewood Park is an 8-acre park with tennis courts, barbeque pits, tables, and a tot lot.

MUSD operates nine elementary schools which cover kindergarten through 6th grade, two junior high schools (7th and 8th grades), and one traditional single high school. It also has an elementary school type facility (the Murphy site) that is leased out to a private institution until 2016; the lease revenue is needed for current MUSD operations, so if they repossess the school site that income will need to be replaced.

Enrollment and Capacity
In 2006-2007, enrollment in MUSD was approximately 5,043 elementary (grades K-6) school students, 1,462 middle school (grades 7-8) students, and 3,177 high school students, for a total of approximately 9,682 students. The total capacity for the district is 11,493 students, meaning that the district is at 84 percent of capacity overall. However, enrollment is not distributed evenly over school type. Using enrollment numbers from 2006/07, the MUSD elementary schools were at 88 percent of capacity (room for 690 additional students), middle schools were at 89 percent of capacity (room for 180 additional students), and the high school system of Milpitas High plus alternatives is at 95 percent of capacity (room for 165 additional students).

MUSD's enrollment projections through the year 2016 expect the district to see the addition of 2,312 students from 10,270 new housing units, including areas covered by the Transit Area Specific Plan and the Midtown Milpitas Specific Plan. The District is considering several approaches to handling the anticipated growth, all which involve the construction of a new elementary school and the expansion of existing facilities.

Students from new housing built in the Planning Area and within the MUSD boundaries would likely attend Zanker Elementary School, Rancho Milpitas Middle School, and Milpitas High School.

- Zanker Elementary is the closest elementary school and the only MUSD school near the Planning Area. As of the 2005-06 school year, Zanker had an enrollment of 455 students, with a capacity for around 555 students, giving it room for another 100 students.
- Rancho Milpitas Middle School has an enrollment around 658 students, with room for 176 more students.
- Milpitas High School had an enrollment of around 2,922 students in a facility built for 2,100 students, although with temporary classrooms it is considered to have capacity for another 150 students.

<u>Environmental Checklist and Discussion of Impacts</u>

PUBLIC SERVICES

PUBLIC SERVICES					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	☐	☐	☒	☐	1,3
Police Protection?	☐	☐	☒	☐	1,3
Schools?	☐	☐	☐	☒	1,3
Parks?	☐	☐	☐	☒	1,3
Other Public Facilities?	☐	☐	☐	☒	1,3

Public Services Impacts

SUMMARY OF IMPACTS

Schools
The number of new students generated by buildout of the proposed Plan will require at least one new elementary school and expansions of existing facilities. Since the provision of public school facilities is outside the control of the City, this is a significant and unavoidable impact, although one that can be mitigated by action from the Milpitas Unified School District.

Fire Protection
With the proposed development of the Transit Area, the fire department would need to expand an existing fire station or build a new one, as well as provide new staff and equipment.

Police Services
Implementation of the proposed Plan would increase the long-term demand for police assistance and new staff and equipment would be required; however, a new police station would not be warranted.

Parks

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).

Impacts Identified under the Transit Area Specific Plan EIR

2. New development under the proposed Milpitas Transit Area Specific Plan will increase the demand for school facilities. (Significant and Unavoidable)

Conclusion

The project would not result in significant impacts to public facilities. **[Less Than Significant Impact]**

4.14 RECREATION

Setting

Environmental Checklist and Discussion of Impacts

RECREATION					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) 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?	☐	☒	☐	☐	1,3
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐	1,3

The proposal includes the dedication of a 0.51 acre public plaza. An additional 1.88 acres would be dedicated for a trail along Penetencia Creek. The development impact fee for the project includes park fees. Any park dedication or improvements are credited against the impact fee.

The project's proposal for the urban plaza and trail is consistent with the Transit Area Specific Plan's open space program.

Conclusion

The proposed project would not result in significant impacts to parks and recreational facilities. **[Less Than Significant Impact]**

4.15 TRANSPORTATION

Setting

Existing Roadway Network
The project is accessed via Great Mall Parkway, a six-lane east-west roadway. McCandless Drive, a two-lane, north-south roadway bisects the project. Within the vicinity is Monatague Expressway, a six-lane, east-west roadway to the south of the project site that intersects with McCandless.

Regional and Local Roadway Access
Regional access is provided to the project via Interstates 880 and 680, Montague Expressway, and State Route 237. Local access is provided by Main Street, Milpitas Boulevard and Great Mall Parkway.

Existing Transit Service
The project is within the vicinity of the Great Mall Transit center that includes bus and light rail service.

Bus Service
AC Transit, with service to Fremont and VTA, with service throughout Santa Clara County and express routes to Fremont service the area.

Existing Pedestrian and Bicycle Facilities
The area includes sidewalks along streets and Class I and Class II facilities are accessible in the area. No Class I facilities are present within the vicinity.

Environmental Checklist and Discussion of Impacts

TRANSPORTATION/TRAFFIC					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?	☐	☐	☒	☐	1

TRANSPORTATION/TRAFFIC					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐	1
3) 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?	☐	☐	☐	☒	1
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	1,14
5) Result in inadequate emergency access?	☐	☐	☐	☒	1,14
6) Result in inadequate parking capacity?	☐	☐	☐	☒	1,14
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒	1,14

Overview
This environmental document analyzes the impacts of the 25% transit oriented density bonus for the project. The transit oriented density bonus gives the project 176 additional units. While the project's density (1,573 dwelling units) does not exceed the overall density allowed under the Transit Area Specific Plan (7,000 dwelling units), specific impacts from the project need to be analyzed closer.

Traffic Impacts
A key analysis is determining whether the proposed trip generations for the project are consistent with what was assumed in the Transit Area Specific Plan EIR. Both the project and the Transit Area Specific Plan trips were estimated based on the trip rates in the EIR, with the exception of multi-family residential. The Transit Area Specific Plan calculation used 8 daily trips/unit (consistent with EIR), while the project used 6 daily trips/unit.

The Transit Area Specific Plan Traffic Study included 7,000 dwelling units (all multi-family). Since multi-family units have a daily trip generation range of 6 to 8 trips, the Traffic Study

assumed 8 trips per dwelling unit. Trip generation for townhouses is 8 and apartments/condos are 6. The project is more akin to the apartment/condo rate of 6 trips, which is consistent with the City's use of SANDAG trip generation rates. Using the 8 trip generation rate provided flexibility to the developers of the Transit Area Specific Plan.

When including the retail for the project, the project is estimated to generate 10,605 trips (732 AM peak hour trips and 955 PM peak hour trips). The Transit Area Specific Plan estimated 12,550 daily trips (729 AM peak hour trips and 1,182 PM peak hour trips).

The project net results in 1,945 fewer daily drips (15% decrease), three more AM peak hour trips (less than 1% increase) and 227 fewer PM peak hour trips (19% decrease). The changes are attributed to more residential units and less retail square footage proposed.

The Transit Area Specific Plan calculation was also based on the land use totals that were contained in the travel model TAZs specific to the Integral property. For both the project and the Transit Area Specific Plan trip generation, the studies used the following trip discounts consistent with the Transit Area Specific Plan EIR: 13% internal residential-retail trip matching, 25% retail pass by, and 9% fixed rail discount for housing.

Other impacts
The project would be conditioned to maintain the existing lane configurations on McCandless Drive at the Great Mall Parkway intersection to ensure compliance with the Transit Area Specific Plan EIR.

It is anticipated that a traffic signal would be warranted at the proposed intersection of McCandless Drive and the proposed new local street between the urban plaza and building D. The applicant would be responsible for its proportionate share of that improvement.

The project proposes two new access points from Great Mall Parkway. Great Mall Parkway improvements including but not limited to median island modifications, street curb modifications, and roadway marking modifications to be determined upon findings of focused traffic operations study to address potential weaving impacts that may result from the installation of new driveways along Great Mall Parkway.

Transit Impacts
The VTA has indicated that the existing bus stops may need to be relocated within the project area.

Impacts to Pedestrian or Bicycle Facilities
Additional pedestrian paths would be constructed with the project and additional linkages would be provided to the new trail.

Emergency Access
Adequate emergency access will be accommodated with specific site development review.

Conclusion

The proposed project would not result in significant transportation impacts. **[Less Than Significant Impact]**

4.16 UTILITIES AND SERVICE SYSTEMS

Setting

Water Service
Potable water supply for the Transit Area is provided by the City of Milpitas through its municipal water system. The City provides water service to homes, businesses, and industry within the City of Milpitas, meeting the demands of around 65,000 residents. 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 wells—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.

The City currently has a supply assurance amount from the SFPUC of 9.23 million gallons per day (mgd) or 10,340 acre-feet per year (AFY). This allocation could be reduced in drought years by SFPUC. In addition, it is anticipated that the incremental cost of water supplied by the SFPUC will become more expensive for the City to purchase should the allocation be increased. For these reasons, the City of Milpitas does not anticipate increasing allocations of SFPUC water at this time. Water supplied by SCVWD is derived in part from executed contracts with the State of California Department of Water Resources and the United States Bureau of Reclamation. The City's contract with SCVWD allows for increases in purchased water to accommodate growth within the City. SCVWD bases its long-term water planning projections on employee and household projections provided by the Association of Bay Area Governments (ABAG). SCVWD responds to new land use plans by accommodating them in their projections for longterm water supply and demand. In accordance with the City's contract, SCVWD provides exact delivery commitments on a three-year delivery schedule based, in part, on projections made by the City. The City has previously anticipated that demand will exceed 6,500 AFY by 2005-2006.

Recycled water is also currently available in Milpitas through the South Bay Water Recycling Program (SBWRP).

Wastewater
The San Jose/Santa Clara Water Pollution Control Plant (WPCP) provides wastewater treatment for the Transit Area as well as the rest of Milpitas and for several other cities and sanitary districts in the region. The WPCP is a regional facility located in San Jose. The cities of San Jose and Santa Clara jointly own the facility while San Jose operates and maintains the facilities. The WPCP first began operations in 1956 as a primary treatment facility and was upgraded to a tertiary treatment plant in 1964 and again in 1979. The WPCP currently provides primary, secondary and tertiary wastewater treatment (filtration, disinfectant and disinfectant removal).

Currently, the City is discharging wastewater to the WPCP at a rate of between 8 and 9 mgd. The City's most current wet weather (December 2006) discharge rate was 8.232 mgd2, down from a December 2005 peak week flow of 9.358 mgd.3 This current flow level is well below the City's 13.5 mgd inflow limit at the WPCP.

The WPCP discharges treated water to Artesian Slough, a tributary to Coyote Creek and the South San Francisco Bay. The WPCP must meet stringent regulatory disposal requirements, including heavy metal limits and maximum dry weather disposal levels intended to protect sensitive salt marshes. In the dry weather period of May through October, the WPCP is required by the San Francisco Regional Water Quality Control Board to limit discharge flows

from the WPCP to 120 mgd ADWF (average dry weather flows), or to flows that would not further impact rare and endangered species habitat.5 The WPCP has had programs in place since 1991 to reduce and maintain flows below 120 mgd, and has maintained compliance with this requirement. The average dry weather effluent flow in the last year for which records are available is approximately 100 mgd.6 Long term plans to remain in compliance with the 120- mgd requirement include on-going water conservation and water recycling.

Storm Drainage
The City of Milpitas owns and maintains a system of underground pipes and a network of street gutters that convey flows from urban runoff to the San Francisco Bay. Within the Transit Area, the majority of stormwater runoff is conveyed to Berryessa Creek and Lower Penitencia Creek, with portions of the area draining into Wrigley-Ford Creek. Most major drainage facilities within the city, such as creeks and channels, are owned and maintained by SCVWD, although within the Transit Area, the City owns and maintains Wrigley-Ford Creek.

Solid Waste
The City of Milpitas disposes of all solid waste at the Permitted Class III, Subtitle D facility, the Newby Island Sanitary Landfill (NISL), administered by BFI. The Newby Island facility accepts solid waste, recyclables, and compostable materials. The NISL does not accept hazardous waste. The facility is 342 acres, of which waste has been placed on approximately 270 acres, and has over 30 feet of 120 feet total depth available. The City's contract with the NISL runs through 2017.

<u>Environmental Checklist and Discussion of Impacts</u>

UTILITIES AND SERVICE SYSTEMS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	1,13
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	1,13
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	1,13

UTILITIES AND SERVICE SYSTEMS					
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	1,13
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	1,13
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	1,13
7) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒	1,13

The Transit Area Specific Plan has built in policies to provide the needed infrastructure for new development. A potential future school site has been designated to the south of this project site. Also, the City's Public Works Department has identified two Conditions of Approval that will allow for high-density development on this site. These infrastructure upgrades were identified in the TASP:

- Integral is required to install the sewer project known as 11A in its entirety. Developer is required to replace 560 linear feet of 18 inch pipe with 21 inch pipe; replace 992 linear feet of 18 inch pipe with 27 inch pipe; and replace 369 feet of 12 inch pipe with 27 inch pipe, as identified on the sewer master plan.
- Integral is required to install a portion of the sewer project known as 11B. The work required at this time includes replacement of 360 linear feet of 15 inch diameter pipe with 18 inch diameter pipe; and replacement of 924 linear feet of 10 inch diameter pipe with 18 inch diameter pipe. The upstream portion is deferred.

Conclusion

The proposed project would not exceed the capacity of existing utilities and service systems. **[Less Than Significant Impact]**

4.17 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐	1-14
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	1-14
3) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☒	☐	1-14
4) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1-14

Discussion: With the implementation of the Mitigation Measures included in the project and described in the specific sections of this report (refer to *Section 4. Environmental Setting, Checklist, and Discussion of Impacts*), on pages 8-54 of this Initial Study, the proposed project would not result in significant environmental impacts.

Global Climate Change Impacts (Cumulative Impacts and Long-Term Environmental Goals)

Global climate change is the alteration of the Earth's weather including its temperature, precipitation, and wind patterns. Global temperatures are affected by naturally occurring and anthropogenic-generated atmospheric gases, such as carbon dioxide, methane, and nitrous oxide. These gases allow sunlight into the Earth's atmosphere, but prevent radiative

heat from escaping into outer space, which is known as the "greenhouse" effect. The world's leading climate scientists have reached consensus that global climate change is underway and is very likely caused by humans.

Agencies at the international, national, state, and local levels are considering strategies to control emissions of gases that contribute to global warming. There is no comprehensive strategy that is being implemented on a global scale that addresses climate change; however, in California, a multi-agency "Climate Action Team" has identified a range of strategies and the Air Resources Board, under Assembly Bill (AB) 32, has been designated to adopt the main plan for reducing California's GHG emissions by January 1, 2009, and various regulations and other initiatives for reducing GHG emissions by January 1, 2011. AB 32 requires achievement by 2020 of a statewide greenhouse gas emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions. By 2050, the state plans to reduce emissions to 80 percent below 1990 levels.

While the state of California has established programs to reduce greenhouse gas emissions, there are no established standards for gauging the significance of greenhouse gas emissions. Neither CEQA nor the CEQA Guidelines provide any methodology for analysis of greenhouse gases. Given the global scope of global climate change, the challenge under CEQA is for a Lead Agency to translate the issue down to the level of a CEQA document for a specific project in a way that is meaningful to the decision making process. Under CEQA, the essential questions are whether a project creates or contributes to an environmental impact or is subject to impacts from the environment in which it would occur, and what mitigation measures are available to avoid or reduce impacts.

Impacts From the Project

Although quantitative measures of climate change have not yet been readily accepted, there are other ways to measure impacts and measures to reduce green house gas emissions. The Transit Area Specific plan is a guiding document for the development of intensified housing and commercial uses near transit hubs. This project is implementing this plan. While the EIR for the TASP identified a significant and unavoidable impacts related to air quality, development near transit stations, over the long run, will reduce vehicle trips, and subsequently reduce vehicle emissions.

Significance of Cumulative Global Climate Change Impacts

In an effort to disclose environmental impacts and to conform with the CEQA Guidelines [§16064(b)], it is the City's position that, based on the nature of this redevelopment project, its location within an established urban area served by existing infrastructure (rather than a greenfield site) and the measures included in the project to reduce vehicle trips and energy use, the proposed project would not impede the state's ability to reach the emission reduction limits/standards set forth by the State of California by Executive Order S-3-05 and AB 32.

Conclusion: With the concentration of housing and jobs near transit hubs, the project would not make a cumulatively considerable contribution to global climate change.
[Less Than Significant Cumulative Impact]

Checklist Sources

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