REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, FEBRUARY 1, 2022
MILPITAS, CA
6:00 PM (CLOSED SESSION)
7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:
Đối với Việt Nam, gọi 408-586-3122
Para sa Tagalog, tumawag sa 408-586-3051
Para español, llame 408-586-3232

City Council meeting is held via teleconference /Zoom webinar only (no physical meeting space).

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:
Facebook: https://www.facebook.com/CityofMilpitas/
YouTube: https://www.ci.milpitas.ca.gov/youtube
Web Streaming: https://www.ci.milpitas.ca.gov/webstreaming

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_R8SBRcHzRmOb5hoDC6Kfow

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All registered meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating by calling in on your phone, dial *9 to use the "raise hand" feature, and when you are called upon, hit *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call the speakers to begin.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (insert time)

ADJOURN TO CLOSED SESSION

(a) **CONFERENCE WITH REAL ESTATE PROPERTY NEGOTIATOR**
Pursuant to Government Code Section 54956.8 Property: 1700 Sango Court and 1831-1841 Tarob Court
Agency Negotiator: City Manager Steve McHarris
Negotiating Parties: Nibbi Brothers General Contractors
Under Negotiation: Price and Terms of Payment

(b) **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to California Government Code Section 54957
Position: City Manager

CLOSED SESSION ANNOUNCEMENT: (7:00 PM)
Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Councilmember Phan)

PRESENTATIONS (7:05 PM)

- Certificate of Appreciation – Homelessness Task Force
- Black History Month (Proclamation)

PUBLIC FORUM (7:10 PM)
Those in the audience via Zoom are invited to address City Council on any subject not on tonight's agenda. Those interested in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to three (3) minutes or less at the Mayor's discretion. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@ci.milpitas.ca.gov by 12:00 p.m. on the day of the meeting.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:15 PM)
Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a future agenda for City Council discussion.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:25 PM)
Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive the City Council Calendar of Meetings for February 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Receive the City Council Calendar of Meetings for February 2022.

C2. Approve the City Council Regular Meeting Minutes of January 18, 2022, and Special Meeting Minutes of January 25, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Approve the City Council Regular Meeting minutes of January 18, 2022, and Special Meeting minutes of January 25, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)

Recommendation: Review the list of items that have been requested by City Councilmembers and provide direction to staff as necessary. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

C5. Approve and Authorize the City Manager to Execute the Improvement Agreement with Sango Court L.P, for the Completion of the Offsite Public Improvements Located at 355 Sango Ct. (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Recommendation: Approve and authorize the City Manager to Execute the Improvement Agreement with Sango Court L.P, for the completion of the Offsite Public Improvements Located at 355 Sango Ct.

C6. Motion to Reconfirm Findings and Determinations Under Resolution No. 9105 and Assembly Bill 361 for the Continuation of Virtual Meetings (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040)

Recommendation: Move to reconfirm findings and determinations under Resolution No. 9105 and Assembly Bill 361 for the continuation of virtual meetings.

C7. Move to Waive the Second Reading Beyond the Title and Adopt Ordinance No. 297.1 Amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance) (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Recommendation: Move to waive the second reading beyond the title and adopt Ordinance No. 297.1 amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance).

C8. Approve and Authorize the City Manager to Execute a New 3-Year Agreement with CDW-G for Office 365 Cloud Products Through a Cooperative Subscription Contract with the County of Riverside California (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)

Recommendation: Approve and authorize the City Manager to execute a new 3-year agreement with CDW-G for Office 365 Cloud products in the amount of $147,757 annually and authorize 10% contingency in the amount of $14,776 for unforeseen licensing needs, for the total amount not-to-exceed $162,533 annually, for a total contract amount of $487,599.

C9. Consider the Recommendations from Mayor Tran for the Appointments to City Commissions (Contact: Mayor Tran, 408- 586-3029)

Recommendation: Receive Mayor Tran's recommendation and approve the appointments City Commissions.

COMMUNITY DEVELOPMENT (7:30 PM)

10. Receive report from Homelessness Task Force (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Recommendation: Receive report from Homelessness Task Force.

11. Conduct a Public Oversight Meeting Pursuant to California Senate Bill 35 (SB 35) for a Proposed 112-Unit Residential Development (100% affordable) up to Five Stories in Height Located at 1300 South Main Street (APN 083-36-002) within the Transit Area Specific Plan Planning Area. The Meeting is for Design Review and Public Oversight on Objective and Focused Design Standards Criteria Required for this Project, as Published and Adopted by Ordinance or Resolution by the City before Submission of a Development Application, and that are Broadly Applicable to Development Within the City. The Design Review and Public Oversight Shall Not in Any Way Inhibit, Chill, or Preclude the Ministerial Approval Provided by Government Code Section 65913.4. (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Recommendation: (1) Receive a presentation from staff regarding SB 35 and the criteria for streamlined review of qualifying projects; (2) Receive a presentation from the applicant of the proposed development; (3) receive public comment; (4) Assess compliance with the criteria for streamlined review as well as any City-adopted objective design standards in accordance with Government Code Section 65913.4.

ADJOURNMENT (9:00 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail:cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.

January 2022

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March 2022

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Milpitas City Council Calendar

February 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 **6:00 PM**-Closed Session **7:00 PM**-City Council	**2** **8:00AM-**VTA-sponsored American Public Transportation Association Webinar (CM) **2:00 PM**-Santa Clara VTA Monthly Briefing - Northeast Group (CM) **5:30 PM**-Veterans Commission (RT) **7:00 PM**-Community Advisory Commission (EC)	**3** **4:30 PM**-Milpitas Chamber of Commerce Board (EC) **5:30 PM**-Santa Clara VTA Board of Directors (CM)	**4**	**5**
6	**7** *Tent: Possible Special Council Meeting* **7:00 PM**-Parks, Recreation & Cultural Resources Commission (CM)	**8** **4:00 PM-**Milpitas HOPE Suicide Prevention Task Force **6:00 PM-**Special City Council Meeting: 2023-27 Capital Improvement Program (CIP) Study Session	**9** **7:00 PM**-Silicon Valley Clean Energy Board of Directors (EC) **7:00 PM**-Planning Commission	**10** **4:00 PM**-Treatment Plant Advisory Committee (CM) **4:00 PM**-Santa Clara VTA Policy Advisory Committee (AP) **5:00 PM-**Homelessness Task Force **7:00 PM**-Youth Advisory Commission (EC) **7:00 PM**-Cities Assoc of SCC (CM)	**11** **3:00 PM-**City Council Transportation Subcommittee (RT/CM) ***4:30 PM**-City Council Finance Subcommittee (RT/CM)*	**12**
13	**14** **4:30 PM**-Economic Development and Trade Commission (KD)	**15** **?:00 PM**-Closed Session **7:00 PM**-City Council	**16** **6:00 PM**-Energy and Environmental Sustainability Commission (EC)	**17** **10:00 AM-**VTA Congestion Management Program Planning Committee (CMPP) (CM) **6:30 PM-**BAWSCA Board of Directors Meeting (CM)	**18** **9:00 AM-**Special VTA Board Workshop (CM)	**19**
20	**21** **PRESIDENT'S DAY** **CITY HALL CLOSED**	**22** **1:30 PM**-Senior Advisory Commission (EC)	**23** **5:30 PM**-Cities Assoc. of SCC - Recycling and Waste Reduction Commission (AP) **7:00 PM**-Planning Commission	**24** **1:30 PM-**SCC Emergency Operational Area Council (CM)	**25** **4:00 PM-**City/School Collaborative Subcommittee (RT/CM)	**26**
27	**28** **7:00 PM**-Special Meeting Science, Technology & Innovation Commission (RT)					

Finance Subcommittee will only meet as needed

Updated 1/27/22

REGULAR MEETING OF THE MILPITAS CITY COUNCIL

TUESDAY, JANUARY 18, 2022
MILPITAS, CA
6:00 PM (CLOSED SESSION)
7:00 PM (PUBLIC BUSINESS)

The City Council of the City of Milpitas convened on the Regular Council Meeting day of January 18, 2022, via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Tran called the Regular City Council meeting to order at 6:00 PM. Roll Call was taken by City Clerk Wood.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan

ABSENT: None

ADJOURN TO CLOSED SESSION

(a) DISCUSSION WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency designated representative: Jeannine Seher, Human Resources Director
Employee Organization: IAFF

(b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to California Government Code Section 54957
Position: City Manager

CLOSED SESSION ANNOUNCEMENT

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

City Attorney Diaz stated there was no reportable action.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

The Invocation was led by Vice Mayor Montano.

PRESENTATIONS

Mayor Tran presented a proclamation in honor of Martin Luther King Jr. Day.

PUBLIC FORUM

Those in the audience via Zoom are invited to address City Council on any subject not on tonight's agenda. Those interested in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to

three (3) minutes or less at the Mayor's discretion. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

The following people spoke under Public Forum:

1. Allen Thomas
2. Stephen Balsbaugh
3. Tisha Patel
4. Elina Kumar
5. Anyala
6. Shravya Augaria
7. Barbara Jo Navarro

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a future agenda for City Council discussion.

City Manager McHarris announced that COVID testing is currently offered at the Milpitas Sports Center, on the first and third Friday of the month from 9:00 a.m. to 4:30 p.m.; and at the Milpitas Community Center on Mondays and Thursdays from 10:00 a.m. to 6:00 p.m. The Community Center will be adding a new testing day on Tuesdays beginning January 25. He announced that the Federal Government is offering four free at-home COVID tests per household. He also invited interested Milpitas residents to apply to the Milpitas My Plan Career Accelerator program as a free program offering residents 18 years and older the opportunity to participate in career assessment, navigation, and counseling services.

Mayor Tran announced the grand opening of HL Peninsula Restaurant in McCarthy Ranch. He also requested that staff explore leasing the vacant land adjacent to the Library for City use.

Councilmember Dominguez requested that the Police Department work with Safeway and other businesses in the shopping center to conduct a "Business Watch" presentation. She would like the presentation to provide information to businesses and the public on the best practices for personal safety, the difference between public and private property, include the latest call stats, and have information on when to call the police and the difference between the 911 and non-emergency numbers.

Mayor Tran made a friendly amendment to include minority-owned small businesses.

Councilmember Chua also requested a friendly amendment to have the Police Department come up with a format on Zoom that can be applied one-on-one with businesses.

Mayor Tran made an additional amendment to partner with all the Chambers of Commerce.

Councilmember Dominguez accepted all the amendments to her request. She announced that January 19 is a day of policy action for the Violence Against Women Act, inviting the public to attend the Futures without Violence virtual rally on January 19 at 12:15 p.m. She also requested staff to explore the cost of a new Police Department sign that would be visible from both sides of North Milpitas Boulevard.

Councilmember Chua requested to agendize a discussion on the pickleball courts for the next meeting. However, City Manager McHarris stated that discussion can happen during the budget study session on January 25, 2022, agreed upon by Councilmember Chua.

Vice Mayor Montano requested the Old Town Main Street Subcommittee meet next month. She also requested to adjourn the Council meeting in memory of the recent victim of domestic violence.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Diaz asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 18, 2022, Regular Meeting Agenda with the modification to move item 15 after item 12.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

CONSENT CALENDAR

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

Vice Mayor Montano asked to remove item C5.

Motion: to approve the modified Consent Calendar, with the removal of items C5.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

C1. Receive the City Council Calendars of Meetings for January and February 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the City Council Calendars of Meetings for January and February 2022.

C2. Approve the City Council Special Meeting Minutes of January 7, 2022, and Special Meeting Minutes of January 11, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the City Council Special Meeting Minutes of January 7, 2022, and Special Meeting Minutes of January 11, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)

Reviewed the list of items that have been requested by City Councilmembers and provide direction to staff as necessary.

C5. Adopt a Resolution Reviewing and Accepting the Annual Development Impact Fee Annual Report for the Calaveras Boulevard Widening Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2021 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

This item was removed from consent.

C6. Approve and Authorize the City Manager to execute Amendment No. 3 to the Agreement with HdL Software LLC for Business License Tracking Software Services (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)

Approved and authorized the City Manager to execute Amendment No. 3 to the Agreement with HdL Software LLC for Business License Tracking Software services for a total amount not-to-exceed amount of $110,609.86.

C7. Award Construction Contract IFB No. 22-032 for the Installation of Card Access Control and Monitoring Systems at Fire Stations to Trofholz Technologies for the Not-To-Exceed Amount of $104,324.42 and Authorize the City Manager to Execute the Construction Contract. (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Awarded construction contract IFB No. 22-032 for the installation of card access control and monitoring systems at Fire Stations to Trofholz Technologies for the not-to-exceed amount of $104,324.42 and authorize the City Manager to execute the construction contract.

C8. Receive the Monthly Report for Unhoused Services (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Received the November 2021 report for unhoused services.

C9. Accept the Resignation of Aysha Mohsin from the Planning Commission (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Accepted the resignation of Aysha Mohsin from the Planning Commission; and confirm the noticing of the unscheduled vacancy.

C10. Move to Waive the Second Reading and Adopt Ordinance No. 43.213 Amending Various Sections of Milpitas Municipal Code, Title V, Chapter 100 - Traffic (Staff Contact: Steve Chan, Transportation and Traffic Manager, 408-586-3324, and Jared Hernandez, Chief of Police, 408-586-2406)

Moved to waive the second reading beyond the title and adopt **Ordinance No. 43.213** amending various sections of Milpitas Municipal Code, Title V, Chapter 100 - Traffic.

C11. Authorize and Approve Travel to Monterey, CA for City Manager Steve McHarris to Attend the League of California Cities City Managers Annual Conference scheduled for February 2 – 4, 2022 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)

Authorized and approved Travel to Monterey, CA for City Manager Steve McHarris to attend the League of California Cities City Managers Conference scheduled for February 2 – 4, 2022, for an

estimated not-to-exceed amount of $2,000 budgeted under Conferences/Trainings allocation for the City Manager's Office.

PUBLIC HEARINGS

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

12. Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, and Environmental Assessment to Allow Development of a 32-Unit Townhome Condominium Subdivision, Comprised of Two Multi-Family Buildings Up to 50 Feet in Height (Three to Four Stories), with Tandem Garages Accessed From a Central Drive Aisle, and Associated Site Improvements on a 1.22-Gross Acre Site Located in the Multi-Family High-Density Residential (R3) Zoning District at 2001 Tarob Court, in the Transit Area Specific Plan (TASP) Planning Area (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Planning Director Thomas introduced the item and Senior Planner Van Hua presented the staff report.

The representative for the applicant Leah Beniston, of The True Life Companies (TTLC), gave a brief presentation.

Mayor Tran opened the public hearing.

The following people spoke:

1. Voltaire Montemayor

Representatives for the applicant, Leah Beniston and legal counsel for the applicant, Arielle Harris from Miller Starr Regalia, provided closing statements and additional information.

Mayor Tran closed the Public Hearing.

Council discussed the project and commented on concerns.

After further discussion, motion: to Conduct a public hearing, receive public comment, and move to close the hearing; consider the consistency memorandums to the Addendum to the Transit Area Specific Plan Environmental Impact Report (TASP EIR) and the exemptions in accordance with CEQA; and adopt **Resolution No. 9116** approving Site Development Permit No. SD21-0004, Conditional Use Permit No. UP21-0005, Vesting Tentative Map No. MT21-0001, and Environmental Assessment No. EA21-0002 to allow the development of a 32-unit townhome condominium subdivision, comprised of two multi-family buildings up to 50 feet in height (three to four stories), with tandem garages accessed from a central drive aisle, and associated site improvements, subject to the Findings and Conditions of Approval.

Motion/Second: Vice Mayor Montano / Councilmember Phan

Motion carried by the following roll call vote:

AYES: Councilmembers Dominguez, Phan, Vice Mayor Montano

NOES: Councilmember Chua, Mayor Tran

ITEM TAKEN OUT OF ORDER

15. Per Councilmember Chua, Consider Rescinding the Direction Given to Staff on September 21, 2021, in Relation to the Preliminary Review of Conceptual Plans for a Proposed 206-Unit Multi-family Residential Development Project on a 6.69-Acre Site Located at 1355 California Circle (APN: 22-338-007) (Contact: Councilmember Chua, 408-586-3023) (Staff Will Provide a Brief Presentation)

Planning Director Thomas gave a presentation on the item, and provided Council with three options for consideration.

Applicant James Sullivan gave a brief presentation.

The following people spoke under public comment:

1. Voltaire Montemayor
2. Barbara Jo Navarro
3. Armando Gomez

Council discussed the options presented and stated general support for option one.

After discussion, motion: to rescind the direction given to Staff on September 21, 2021, in relation to the preliminary review of conceptual plans for a proposed 206-unit multi-family residential development Project on a 6.69-acre site located at 1355 California Circle (APN: 22-338-007); and directed staff and the application to explore option one in the presentation to amend the General Plan and remove Council policy for the preparation of a Specific Plan, and have the project representative reach out to the community, host meetings, and get community feedback.

Motion/Second: Councilmember Chua / Councilmember Phan

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Phan, Vice Mayor Montano, Mayor Tran

NOES: Councilmember Dominguez

COMMUNITY DEVELOPMENT

13. Receive a Presentation on the Draft Development Review Handbook and Accessory Dwelling Unit (ADU) Toolkit (Staff Contact: Jay Lee, Principal Planner, 408-586-3077)

Principal Planner Lee gave a presentation on the draft Development Review Handbook and Accessory Dwelling Unit (ADU) Toolkit.

The following people spoke under public comment:

1. John Doll
2. Voltaire Montemayor

Council accepted the presentation and provided feedback.

14. Milpitas Affordable Housing Ordinance Update (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Building Safety and Housing Director Goei presented the staff report.

City Attorney Diaz read the title of Ordinance No. 297.1 “An Ordinance of the City Council of the City of Milpitas Amending Title Xii, Chapter 1 of the Milpitas Municipal Code Relating to Affordable Housing and Making CEQA Exemption Findings.”

Motion: to introduce **Ordinance No. 297.1** amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance).

Motion/Second: Councilmember Chua / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

REPORTS OF MAYOR & COUNCILMEMBERS

***15. Per Councilmember Chua, Consider Rescinding the Direction Given to Staff on September 21, 2021, in Relation to the Preliminary Review of Conceptual Plans for a Proposed 206-Unit Multi-family Residential Development Project on a 6.69-Acre Site Located at 1355 California Circle (APN: 22-338-007) (Contact: Councilmember Chua, 408-586-3023)** (Staff Will Provide a Brief Presentation)

* This item was moved after item 12.

ITEMS PULLED FROM CONSENT CALENDAR

C5. Adopt a Resolution Reviewing and Accepting the Annual Development Impact Fee Annual Report for the Calaveras Boulevard Widening Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2021 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Vice Mayor Montano asked for clarification on the process.

Transportation and Traffic Manager Chan provided additional information.

The following spoke under public comment:

1. Voltaire Montemayor

Motion: to adopt **Resolution No. 9117** consistent with the Mitigation Fee Act to review and accept the annual development impact fee disclosure information for the Calaveras Blvd Widening Traffic Impact Fee, Transit Area Specific Plan Impact Fee, and Storm Drain Fee for the Fiscal Year Ended June 30, 2021.

Motion/Second: Vice Mayor Montano / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

ADJOURNMENT

Vice Mayor Montano asked for a few moments of silence and adjourned the meeting at 10:44 PM in memory of Christina Alexis Raymond.

Draft meeting minutes submitted by City Clerk, Wendy Wood

SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, JANUARY 25, 2022
MILPITAS, CA
5:30 PM

The City Council of the City of Milpitas convened on the Special Council Meeting day of January 25, 2022, via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Tran called the Regular City Council meeting to order at 5:30 PM. Roll Call was taken by City Clerk Wood.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan (arrived at approximately 5:35)

ABSENT: None

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

PUBLIC FORUM

Those interested are invited to address the City Council on the agenda item listed below only, by using the "raise hand" in the zoom webinar online (see instructions on page one (1). Speakers may state their name and city of residence for the record, and limit spoken remarks to three minutes, or less, at the discretion of the Mayor.

There were no speakers under Public Forum.

ANNOUNCEMENTS

There were no announcements.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest.

READING OF THE CITY COUNCIL CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 25, 2022, Special Meeting Agenda.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

AGENDA ITEMS

1. Receive a Staff Presentation on the Preliminary FY 2023-32 Ten-Year General Fund Financial Forecast and Provide Feedback on Desired Service Levels to Inform the FY 2022-23 Budget Development (Staff Contacts: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Lauren Lai, Finance Director, 408-586-3111)

City Manager McHarris introduced the item. FM3 consultant Curt Below Finance presented preliminary survey results from the community engagement citywide survey. Director Lai, Assistant City Manager Kantak, and Deputy City Manager Rossmann gave a presentation on the Preliminary FY 2023-32 Ten-Year General Fund Financial Forecast.

The following spoke under public comment:

1. Voltaire Montemayor
2. Allysson McDonald
3. Barbara Jo Navarro
4. Stephen Balsbaugh

Mayor Tran commented on investing in Public Works to address streetscaping, landscaping, and streetlights.

Councilmember Dominguez commented on looking for grant opportunities and funding parks.

Councilmember Chua commented on redirecting $60,000 of America Rescue Plan Act (ARPA) funds from the Main Street Revitalization to environmental sustainability projects and requested a project plan for the 12 funded park projects included in the CIP budget.

Mayor Tran commented on postponing the item to change his term limits proposal for elected officials and look at it at a later time.

Council had a consensus to add a pickleball pilot program to the CIP budget discussion.

Councilmember Dominguez asked to look at cost of developing the pickleball courts beyond a pilot program and wanted to see if it is possible to fund it through ARPA. She also wanted to see if any funding could be allocated to the CIP unfunded parks.

Vice Mayor Montano requested a list of other Santa Clara County City's reserve funding in comparison to Milpitas.

Councilmember Chua asked to add a summary of the unfunded liabilities balances to the previously requested list with the percentage of reserves each city has in terms of their unfunded liabilities. She also commented on having staff look at funding the Park Champions program with ARPA funding.

Councilmember Phan commented on the community survey and would like to have more cross tab data included so that Council can fully assess the community's needs.

ADJOURNMENT

Mayor Tran adjourned the meeting at 8:40 PM.

Draft meeting minutes submitted by City Clerk, Wendy Wood

MILPITAS CITY COUNCIL
AGENDA PREVIEW LIST

February 15, 2022

CLOSED SESSION

INVOCATION (assigned to Councilmember Phan)

PRESENTATION

CONSENT CALENDAR

1. Receive City Council calendar for February and March 2022 (City Clerk)
,
2. Approve City Council Regular Meeting Minutes of February 1, 2022 (City Clerk)

3. Preview list of items for March 1, 2022 (City Clerk)

4. Councilmember Request List (City Clerk)

5. FY 2021-22 Second Quarter Fiscal Update Report (Lauren Lai)

PUBLIC HEARING

COMMUNITY DEVELOPMENT

6. Gateway Plan – Ascent Contract Amendment and MTC Supplemental Funding Agreement (Ned Thomas)

COMMUNITY SERVICES

7. Approval of the Streets, Facilities, and Parks Naming Council Policy and related Naming Lists (Renee Lorentzen)

PUBLIC SAFETY

LEADERSHIP

8. FY 21-22 Mid-Year Budget Amendments (Lauren Lai)

REPORTS

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

			NOTE: Deferred and completed items are not listed		
2022	**OPEN**				
Request No.	**Topic**	**Submitted by:**	**A, F, CM, or CCM**	**Date requested or Rec'd Form**	**STATUS and/or DATE scheduled on City Council meeting agenda:**
1	Requested a meeting for the subcommittee for the Old Town Main Street be scheduled next month	Montano	A	1/18/2022	
2	Requesting discussion on pickleball courts	Chua	A	1/18/2022	At the 1/25/2022 budget Study Session direction was given to staff to provide information at the CIP budget meeting scheduled for 2/8/2022
3	Requested that staff study the placement of a City sign for the Milpitas Police Department and explore the cost of a new sign	Dominguez	A	1/18/2021	Staff has been working on upgrading signage and landscaping around the Police Department and Public Works Building.
4	Requested that Police Department work with Safeway shopping center businesses, minority owned small businesses, and the Chambers of Commerce to provide a business watch presentation	Dominguez	A	1/18/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
5	Explore a lease for the vacant land adjacent to the Library for City use	Tran	A	1/18/2022	

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

6	Requested staff to look into an ordinance for the number of people allowed in a house.	Montano	A	12/7/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
7	Requested staff check to see if the City has an ordinance for house numbers	Chua	A	12/7/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
8	Requested staff to look at creating a pilot project to accommodate pickleball at Peter Gill Park and would like a feasibility study with a goal of making these courts multi-purpose	Chua	A	11/16/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
9	Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement	Phan	A	11/16/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
10	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	A	11/16/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
11	Look at creating an ordinance for a blanket business permit that would grandfather and waive all fees for any business started separate from their original business if they are creating anything that is helping save lives during the pandemic.	Dominguez	A	11/2/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
12	Staff to look into County reimbursements to the City for the extra services provided to HomeKey.	Chua	A	11/2/2021	Staff to contact the County an issue an Email/Information Memorandum
13	Host a Town Hall at City Hall in January, February, and March for the community to share comments about the issue of the unhoused.	Tran	A	11/2/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

	ACTIVE				
	Topic	**Submitted by:**	**A, F, CM, or CCM**	**Date requested or Rec'd Form**	**STATUS and/or DATE scheduled on City Council meeting agenda:**
14	Park Champions	Chua	A	10/19/2021	Approved to move forward at the 1/11/2022 Council meeting
15	Have a picture of Albert Bogel Sr. put up in the Senior Center	Montano	A	10/19/2021	Approved to move forward at the 1/11/2022 Council meeting
16	Requested that the City provide the Commissioners with an appreciation gifts	Chua	A	10/19/2021	Approved to move forward at the 1/11/2022 Council meeting
17	Requested an agenda item on November 2 Council meeting allowing the Council to rescind direction given to 1355 California Circle and include direction to allow the project application to move forward without being tied to a specific plan	Chua	A	10/19/2021	At the 1/18/2022 council meeting, Council voted 4-1 to rescind the direction and direct staff and the application to explore option one in the presentation to amend the General Plan and remove Council policy for the preparation of a Specific Plan
18	Requested the executive staff to look into reflective road markers as an effective way to reduce cars doing donuts in the street	Chua	A	10/19/2021	At the 11/12/21 Transportation Subcommittee, the Subcommittee directed to bring back this request to Council as part of the 2022-23 budget process. Staff will provide that information at the CIP Study Session scheduled for 2/8/2022

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

19	Requested staff look into increasing the number of Park and Recreation commissioners from seven to nine.	Montano	A	10/5/2021	Approved to move forward at the 1/11/2022 Council meeting
20	Requested Staff see if there is anything that can be done to address an increase in illegal dumping	Phan	A	10/5/2021	Staff will provide an Information Memorandum.
21	Requested staff work with the Vice Mayor and Mayor to explore and discuss building height limits near the hillside by January 2022	Tran	A	9/21/2021	Approved to move forward at the 1/11/2022 Council meeting
22	Requested the City extend the outdoor dining options through March of next year	Phan	A	9/21/2021	Planning Director to provide information on current outdoor dining extension
23	Work with the school district to have a contest to create art murals for the pillars on Main Street	Montano	A	9/7/2021	Approved to move forward at the 1/11/2022 Council meeting
24	Partner with the Rotary Club of Silicon Andhra to promote the stem cell donor outreach with a webinar and campaign to help increase the number of donors	Chua	A	8/17/2021	Staff will include the stem cell donor information in regularly scheduled wellness event
25	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	A	8/17/2021	Approved to move forward at the 1/11/2022 Council meeting
26	Create an “Incentive Corner,” which will be a sub-page with links to different freebies, grants, and incentives from the City and the regions, including the Water District and Silicon Valley Clean Energy	Chua	A	8/17/2021	Staff will implement this item early 2022
27	City to highlight mental health resources on the website	Dominguez	A	8/17/2021	Staff will issue an Email
28	Requested staff look into donating old, obsolete, noncompliance items from the Fire Department to Sister City Dagupan	Chua	A	8/9/2021	Approved to move forward at the 1/11/2022 Council meeting

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

29	Look into allowing outdoor music and would like the ordinance brought back to Council.	Montano	A	8/5/2021	Approved to move forward at the 1/11/2022 Council meeting
30	Look into opening up the Senior Center on Saturdays for half a day	Chua	A	8/5/2021	Approved to move forward at the 1/11/2022 Council meeting
31	Look into bringing back a roller rink	Montano	A	8/5/2021	Approved to move forward at the 1/11/2022 Council meeting
32	Look into how the City can be a resource for small businesses to help guide them on what to do in terms of ADA (Americans with Disabilities Act) requirements due to the quick changes made to facilities during the pandemic	Chua	A	8/5/2021	SVEDA/SV Joint Venture hosted the "SV Small Businesses & ADA Compliance" webinar on 11/3/21. Several Milpitas business reps, & staff from Econ. Dev. & Building participated. Staff met with reps from CA Comm. on Disability Access to discuss business education & outreach.
33	Amend ordinance to remove affordable housing in-lieu fee; status update on this item	Chua	A	12/15/2020; 6/1/2021	Agendized on 1/5/21, Info Memo sent on 1/5/21. Received Council majority vote on 2/2/2021 and 3/16/2021. CC direction to agendize for further meeting. Stakeholder outreach to be conducted in Dec-Jan and draft ordinance for Council consideration in early 2022. 1/18/202 first reading of ordinance approved; second reading and adoption scheduled for 2/1/2022

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

34	Discussion in the next fiscal year, to have a sliding scale permitting program for seniors and low-income residence for necessary safety renovations	Tran	A	5/4/2021	8/09/2021 Council voted 5-0 to move this item forward and modify the existing Milpitas Assistance program to include seniors; Staff will bring this item for funding consideration as part of the FY 2022-23 budget process
35	Information showing that the ordinance requiring developers to provide art features is being followed and an update on the Art developer fees.	Montano	A	5/4/2021	Information Memorandum was issued on November 4, 2021.
36	Discussion to reduce the City's Senior Center facilities deposit	Montano	A	5/4/2021	8/09/2021 Council voted 5-0 to refer this item as part of the development of the FY 2022-23 Master Fee Schedule
37	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	A	4/20/2021	8/09/2021 Council voted 3-1-1 to move this item forward, staff to follow up with Vice Mayor Montano on specific vision. Staff met with the Vice Mayor. The City will continue to facilitate libraries as needed but will not take a lead role in funding or operating them.
38	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	A	4/6/2021	At 8/9/2021 Council meeting, Council voted that this item may have to come back for additional discussion because there may be some legal considerations.

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

39	Staff to look into creating a rose garden with a children's memorial site	Montano	A	4/6/2021	8/09/2021 Council voted 4-1 to discuss details with Vice Mayor Montano and refer this item as part of the development of the 2023-2027 CIP
40	Staff to look into creating "Welcome to Milpitas" signs in key areas of in the City	Montano	A	4/6/2021	8/09/2021 Council voted 5-0 to move this item forward and Council provided direction that the signs should align with the efforts currently underway with the Metro Plan and Main Street Gateway Specific Plan process and work with private development. Staff was directed to work with Vice Mayor on additional clarification. In November, Vice Mayor Montano noted a preference for a location on South Main Street.
41	Staff to provide information to place a measure on the ballot to change the directly elected Mayor to a rotational at-large position	Tran	CCM	3/16/2021	To be brought forward in Spring of 2022, once new City Attorney is in place.
42	Staff to provide information on a landmark policy for the City of Milpitas	Tran	A	3/16/2021	8/09/2021 Council voted 5-0 to move this item forward; this item will be included for funding consideration in the development of the FY 2023-27 CIP for assessment of historical and cultural resources and development of landmark policy

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

43	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees	Phan	A	2/16/2021	Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report; At the 11/12/2021 Transportation Subcommittee, the Subcommittee directed to bring back this request to Council as part of the FY 2022-23 budget process.
44	Ordinance to ban vaping in the City	Montano	A	12/15/2020	Ordinance regarding a ban on use in certain areas adopted by Council on 6/15/2021. Policy related to access to products will be brought forward in Spring 2022
45	Review City policy on speed bumps	Tran	A	12/15/2020	Presented to Transportation Subcommittee on 02/12/2021;voted on 3/16/2021 to revisit this item
46	Consider change in term limits for Mayor + Councilmembers	Montano	A	6/16/2020	8/4/2020: Voted 3 -2 to pursue; 2/02/2021 to agendize for a future meeting; 3/16/2021 voted 3-1-1 to move forward. To be brought back in Spring 2022, once a new City Attorney is in place.
47	Consider Community Museum and Park on Main St.	Phan	F	8/20/2019	to Rules 8/23/2019. Moved to Specific Plan Community Conversation events.

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Approve and Authorize the City Manager to Execute the Improvement Agreement with Sango Court L.P, for the completion of the Offsite Public Improvements Located at 355 Sango Ct.**
Category:	Consent Calendar-Community Development
Meeting Date:	2/1/2022
Staff Contact:	Steve Erickson, Engineering Director/City Engineer, 408-586-3301
Recommendation:	**Approve and Authorize the City Manager to Execute the Improvement Agreement with Sango Court L.P, for the completion of the Offsite Public Improvements Located at 355 Sango Ct.**

Background:
On September 19, 2017, The Developer (Sango Court L.P.) submitted to the City an application for approval of a Site Development Permit (the "RCD Housing Project") for real property located within City, a legal description of which is attached hereto as Exhibit "A" ("Property").

On May 23, 2018, the Milpitas Planning Commission approved an application for a Site Development Permit (SD17-0017), Density Bonus (DB17-0001), and Environmental Assessment (EA18-0001) to allow the construction of a 102-unit multifamily apartment building with associated site improvements. The Project is located on an existing 1.26-acre site at 355 Sango Court, Milpitas, CA 95035.

The proposed offsite public improvements to be constructed and accepted by the City include the installation of a new 8-inch recycled water main line along Sango Court to Montague Expressway; 10-foot wide pedestrian and bicycle trail along Penitencia Creek; new Sango Court to Tarob Court street extension per TASP residential street standard and guideline with curb and gutter, sidewalk, driveway approach, utility services, landscaping and other miscellaneous items of work identified on the improvement plans.

Analysis:
The Developer has agreed to enter into an Improvement Agreement (**Attachment 1**) with the City for the construction of off-site public improvements for the project which will be completed with the on-site work and accepted by the City after completion. The improvements will be completed within 2-years from the date of the Agreement, and the work is guaranteed by bonds or similar securities to be posted by the Developer in the amount of $1,585,103.00. The City Engineering Director/City Engineer has reviewed the public improvement plans (2-1386) and is recommending the City Council approve the Improvement Agreement to allow for the construction of public improvements to proceed.

Policy Alternatives:
Alternative 1:
Deny approval of Improvement Agreement for the installation of offsite improvement for the.

Pros: None

Cons: Denying the approval of the Improvement Agreement will cause the proposed offsite public improvements that support the 355 Sango Ct Project to not be constructed.

Reason not recommended: The proposed offsite public improvements are designed to support the 355 Sango Ct Project and staff recommends the City Council approve the Improvement Agreement for construction.

Fiscal Impact:
Required public improvements will be paid for and constructed by the Developer. The Developer will also pay for staff costs for plan review and construction inspections. Following the completion of the public improvements and acceptance by the City, the City will assume maintenance responsibilities after the 1-year warranty period is over.

California Environmental Quality Act:
Approval of the Improvement Agreement implements this project for which CEQA review has already been completed through the City Council's adoption of Resolution No. 18-009 exempt through the City Council's adoption of Resolution No. 20-006.

Recommendation:
Approve and Authorize the City Manager to Execute the Improvement Agreement with Sango Court L.P, for the completion of the Offsite Public Improvements Located at for at 355 Sango Ct.

Attachments:
1. Improvement Agreement

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:

CITY OF MILPITAS
455 E. Calaveras Blvd
MILPITAS, CA 95035
ATTN: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exempt from recording fee, per Government Code Section 6103

CITY OF MILPITAS, CALIFORNIA

By: _____
City Clerk

AGREEMENT FOR COMPLETION OF PUBLIC IMPROVEMENTS

between
CITY OF MILPITAS

a California municipal corporation

and
SANGO COURT, L.P.

a California Limited Partnership

AGREEMENT FOR COMPLETION OF PUBLIC IMPROVEMENTS

I. PARTIES AND DATE.

This Agreement for the Completion of Public Improvements ("**Agreement**") is entered into as of _____, 2022 by and between the City of MILPITAS, a California municipal corporation ("**City**") and Sango Court, L.P. a California limited partnership with its principal office located at c/o Resources for Community Development, 2220 Oxford Street, Berkeley, CA 94704 ("**Developer**"). City and Developer are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "**Parties**."

II. RECITALS.

A. On September 19, 2017 Developer submitted to City an application for approval of a Site Development Permit, Density Bonus and Environmental Assessment for the construction of 100-102 Unit Multifamily apartment building ("**RCD Housing Project**") for real property located within City, a legal description of which is attached hereto as **Exhibit "A"** ("**Property**").

B. On June 12, 2018, the MILPITAS CITY COUNCIL Adopted Resolution No. 8796 approving the Site Development Permit No. SD17-0017, Density Bonus No. DB17-0001, and Environmental Assessment No. EA18-0001 for the RCD Housing Project.

C. Developer has not completed all of the work or made all of the public improvements required by **Title XI, Chapter 1, Section 7 of City's municipal code**, the conditions of approval for the RCD Housing Project, or other ordinances, resolutions, or policies of City requiring construction of public improvements in conjunction with the RCD Housing Project.

D. Pursuant to Title XI, Chapter 1, Section 7 of the City's Municipal Code, Developer and City enter into this Agreement for the timely construction and completion of the public improvements and the furnishing of the security therefor, acceptable to the City Engineer and City Attorney, for the RCD Housing Project.

E. Developer's execution of this Agreement and the provision of the security are made in consideration of City's approval of the RCD Housing Project.

III. TERMS.

1.0 Effectiveness. This Agreement shall not be effective unless and until both of the following conditions are satisfied: (a) Developer provides City with security of the type and in the amounts required by this Agreement; and (b) Developer executes and records this Agreement in the Recorder's Office of the County of SANTA CLARA If the above described conditions are not satisfied within 60 days after the entry date of this Agreement, this Agreement shall automatically terminate without need of further action by either City or Developer.

2.0 Public Improvements. Developer shall construct or have constructed at its own cost, expense, and liability all improvements required by City as part of the approval of RCD Housing Project, including, but not limited to, all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities as shown in detail on the plans, profiles, and specifications which have been prepared by or on behalf of Developer for the RCD Housing Project ("**Public Improvements**"). The Public Improvements are more specifically described in **Exhibit "B,"** which is attached hereto and incorporated herein by this reference, and as shown on City approved Improvement Plan No. 2-1386 on file with the City. Construction of the Public Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. The Developer shall be responsible for the installation of a new 8-inch recycled water main line along the City's Preferred Alignment with point of beginning on Sango Court at the east end of the Sango Housing Project to Montague Expressway; 10-foot wide pedestrian and bicycle trail along Penitencia Creek; 6-foot PSUE; new Sango Court to Tarob Court street extension per TASP residential street standard and guidelines. Such improvements shall be performed to the complete satisfaction of the City Engineer, South Bay Water Recycling, and State of California. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary or required by City to fully and adequately complete the Public Improvements.

2.1 Prior Partial Construction of Public Improvements. Where construction of any Public Improvements has been partially completed prior to this Agreement, Developer agrees to complete such Public Improvements or assure their completion in accordance with this Agreement.

2.2 Permits; Notices; Utility Statements. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the Public Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer. Prior to commencing any work, Developer shall file a written statement with the City Clerk and the City Engineer, signed by Developer and each utility which will provide utility service to the Property, attesting that Developer has made all deposits legally required by each utility for the extension and provision of utility service to the Property.

2.3 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any Public Improvement until all plans and specifications for such Public Improvement have been submitted to and approved by the City Engineer, or his or her designee.

Approval by the City Engineer shall not relieve Developer from ensuring that all Public Improvements conform with all other requirements and standards set forth in this Agreement.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the Public Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The Public Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with City, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required to construct the Public Improvements under this Agreement in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to Improvements. The Public Improvements as described and as shown on Improvement Plan No. 2-1386 on file with the City are understood to be only a general designation of the work and improvements to be done, and not a binding description thereof. All work shall be done and improvements made and completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation of the Public Improvements it is determined that the public interest requires alterations in the Public Improvements, Developer shall undertake such design and construction changes as may be reasonably required by City. Any and all alterations in the plans and specifications and the Public Improvements to be completed may be accomplished without giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of Public Improvements and Landscaping. City shall not be responsible or liable for the maintenance or care of the Public Improvements until City approves and accepts them. City shall exercise no control over the Public Improvements until accepted by City pursuant to Section 11.0. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of the Developer at all times prior to City's acceptance of the Public Improvements. Developer shall maintain all the Public Improvements in a state of good repair until they are completed by Developer and approved and accepted by City, and until the security for the performance of this Agreement is released. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to City; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If

Developer fails to properly prosecute its maintenance obligation under this section, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance.

4.0 Construction Schedule. Unless extended pursuant to this Section 4.1 of this Agreement, Developer shall fully and adequately complete or have completed the Public Improvements within two (2) years of the effective date of this Agreement, unless extended pursuant to Section 4.1.

4.1 Extensions. City may, in its sole and absolute discretion, provide Developer with additional time within which to complete the Public Improvements. It is understood that by providing the security required under Section 13.0 et seq. of this Agreement, Developer and its surety consent in advance to any extension of time as may be given by City to Developer, and waives any and all right to notice of such extension(s). Developer's acceptance of an extension of time granted by City shall constitute a waiver by Developer and its surety of all defense of laches, estoppel, statutes of limitations, and other limitations of action in any action or proceeding filed by City following the date on which the Public Improvements were to have been completed hereunder. In addition, as consideration for granting such extension to Developer, City reserves the right to review the provisions of this Agreement, including, but not limited to, the construction standards, the cost estimates established by City, and the sufficiency of the improvement security provided by Developer, and to require adjustments thereto when warranted according to City's reasonable discretion.

4.2 Accrual of Limitations Period. Any limitations period provided by law related to breach of this Agreement or the terms thereof shall not accrue until Developer has provided the City Engineer with written notice of Developer's intent to abandon or otherwise not complete required or agreed upon Public Improvements.

5.0 Grading. Developer agrees that any and all grading done or to be done in conjunction with construction of the Public Improvements or development of RCD Housing Project shall conform to all federal, state, and local laws, ordinances, regulations, and other requirements, including City's grading regulations. In order to prevent damage to the Public Improvements by improper drainage or other hazards, the grading shall be completed in accordance with the time schedule for completion of the Public Improvements established by this Agreement, and prior to City's approval and acceptance of the Public Improvements and release of the Security as set forth in Sections 11.0 and 13.0 et seq. of this Agreement.

6.0 Utilities. Developer shall provide utility services, including water, power, and telephone service to serve each parcel, lot, or unit of land within the RCD Housing Project in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the regulations, schedules and fees of the utilities or agencies providing such services. Except for commercial or industrial properties, Developer shall also provide cable television facilities to serve each parcel, lot, or unit of land in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the requirements

of the cable company possessing a valid franchise with City to provide such service within City's jurisdictional limits. All utilities shall be installed underground.

7.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes arising out of construction of the Public Improvements, including, but not limited to, all plan check, design review, engineering, inspection, and other service fees, and any impact or connection fees established by City ordinance, resolution, regulation, or policy, or as established by City relative to the RCD Housing Project.

8.0 City Inspection of Public Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the Public Improvements, maintain reasonable and safe facilities and provide safe access for inspection by City of the Public Improvements and areas where construction of the Public Improvements is occurring or will occur.

9.0 Default; Notice; Remedies.

9.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if City determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, City may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within ten (10) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, City may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon City's issuance of the Notice, Developer and its surety shall be liable to City for all costs of construction and installation of the Public Improvements and all other administrative costs expenses as provided for in Section 10.0 of this Agreement.

9.2 Failure to Remedy; City Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to City within the time frame contained in the Notice, City may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. City's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any, or none of the required or agreed upon Public Improvements at the time of City's demand for performance. In the event City elects to complete or arrange for completion of the remaining work and improvements, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City. Notwithstanding the foregoing, if conditions precedent for reversion to acreage can be met and if the interests of City will not be prejudiced thereby, City may also process a reversion to acreage and thereafter recover from Developer or its surety the full cost and expense incurred.

9.3 Other Remedies. No action by City pursuant to Section 9.0 et seq. of this Agreement shall prohibit City from exercising any other right or pursuing any other legal or

equitable remedy available under this Agreement or any federal, state, or local law. City may exercise its rights and remedies independently or cumulatively, and City may pursue inconsistent remedies. City may institute an action for damages, injunctive relief, or specific performance.

10.0 Administrative Costs. If Developer fails to construct and install all or any part of the Public Improvements within the time required by this Agreement, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to City for all administrative expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

11.0 Acceptance of Improvements; As-Built or Record Drawings. If the Public Improvements are properly completed by Developer and approved by the City Engineer, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, the City Council shall be authorized to accept the Public Improvements. The City Council may, in its sole and absolute discretion, accept fully completed portions of the Public Improvements prior to such time as all of the Public Improvements are complete and reduce the requirement Security amount pursuant to Section 13.0 et seq., which shall not release or modify Developer's obligation to complete the remainder of the Public Improvements within the time required by this Agreement. Upon the total or partial acceptance of the Public Improvements by City, Developer shall file with the Recorder's Office of the County of SANTA CLARA a notice of completion for the accepted Public Improvements in accordance with applicable California laws, at which time the accepted Public Improvements shall become the sole and exclusive property of City without payment therefore. Issuance by City of occupancy permits for any buildings or structures located on the Property shall not be construed in any manner to constitute City's acceptance or approval of any Public Improvements. Notwithstanding the foregoing, City may not accept any Public Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the City Engineer for all such Public Improvements. The drawings shall be certified by the record engineer and shall reflect the condition of the Public Improvements as constructed, with all changes incorporated therein.

12.0 Warranty and Guarantee. Developer hereby warrants and guarantees all Public Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of all landscaping within the Property in a vigorous and thriving condition reasonably acceptable to City, for a period of one (1) year following completion of the Public Improvements and acceptance of them by the City Council ("**Warranty**"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the Public Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of City, and subject to the approval of the City Engineer. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any Public Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following the City Engineer's acceptance of the repaired, replaced, or reconstructed Public Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any Public Improvement following

expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

13.0 Improvement Security; Surety Bonds. Prior to this Agreement taking effect as set forth in Section 1.0 above, Developer shall provide City with surety bonds in the amounts and under the terms set forth below ("**Security**"). The amount of the Security shall be based on the City Engineer's approximation of the actual cost to construct the Public Improvements, including the installation of a new 8-inch recycling water main line along the City's Preferred Alignment with point of beginning on Sango Court at the east end of the Sango Housing Project to Montague Expressway; 10-feet wide pedestrian and bicycle trail along Penitencia Creek; 6-feet PSUE; new Sango Court to Tarob Court street extension per TASP residential street standard and guidelines. ("**Estimated Costs**"). If City determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer shall adjust the Security in the amount requested by City. Developer's compliance with this provision (Section 13.0 et seq.) shall in no way limit or modify Developer's indemnification obligation provided in Section 16.0 of this Agreement. The amount of the improvement security shall be adjusted annually based on the Engineering News-Record Construction Price Index for the San Francisco-San Jose area in November of each year, Developer shall have an affirmative obligation to provide the City with evidence of valid security no later than November 30 of each year until all improvements required by project conditions have been constructed. Developer may provide multiple securities in accordance with construction phases, as approved by the City Engineer with a construction phasing plan. Improvement securities may be reduced/released based upon each of the construction phases.

13.1 Performance Bond. To guarantee the faithful performance of the Public Improvements and all the provisions of this Agreement, to protect City if Developer is in default as set forth in Section 9.0 et seq. of this Agreement, and to secure Developer's one-year guarantee and warranty of the Public Improvements, including the maintenance of all landscaping in a vigorous and thriving condition, Developer shall provide City a faithful performance bond in the amount of **One Million Five Hundred Eighty Five Thousand One Hundred Three Dollars ($ 1,585,103.00)**, which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The City Council may, in its sole and absolute discretion and upon recommendation of the City Engineer, partially release a portion or portions of the security provided under this section as portions of the Public Improvements are completed and accepted by the City Council, provided that Developer is not in default on any provision of this Agreement or condition of approval for the RCD Housing Project and the total remaining security is not less than twenty-five percent (25%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 12.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement or condition of approval for the RCD Housing Project.

13.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, material men, and other persons furnishing labor, materials, or equipment for performance of the Public Improvements and this Agreement, Developer shall provide City a labor and materials bond in the amount of **One Million Five Hundred Eighty Five Thousand One Hundred Three Dollars ($1,585,103.00),** which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of the City Engineer after six (6) months from the date City accepts the

final Public Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which City is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of City's anticipated administrative and legal expenses arising out of such claims.

13.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best's rating of no less than A:VIII, shall be licensed to do business in California, and shall be satisfactory to City. As part of the obligation secured by the Security and in addition to the face amount of the Security, the Developer or its surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by City in enforcing the obligations of this Agreement. The Developer and its surety stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the Public Improvements, or the plans and specifications for the Public Improvements shall in any way affect its obligation on the Security.

13.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "C," unless other forms are deemed acceptable by the City Engineer and the City Attorney, and when such forms are completed to the satisfaction of City, the forms and evidence of the Security shall be attached hereto as Exhibit "C" and incorporated herein by this reference.

14.0 Monument Security.

15.0 Lien. To secure the timely performance of Developer's obligations under this Agreement, including those obligations for which security has been provided pursuant to Sections 13 et seq. and 14 of this Agreement, Developer hereby creates in favor of City a lien against all portions of the Property not dedicated to City or some other governmental agency for a public purpose. As to Developer's default on those obligations for which security has been provided pursuant to Sections 13 et seq. and 14 of this Agreement, City shall first attempt to collect against such security prior to exercising its rights as a contract lienholder under this section.

16.0 Indemnification. Developer shall defend, indemnify, and hold harmless City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its personnel, employees, agents, or contractors in connection with or arising out of construction or maintenance of the Public Improvements, or performance of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys fees, and related costs or expenses, and the reimbursement of City, its elected officials, officers, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any claim, demand, cause of action, liability, loss, damage, penalty, fine, or injury, to property or persons, including wrongful death, to the extent caused by or resulting from the negligence or willful misconduct of City or those otherwise entitled to such defense, indemnification and hold harmless as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall

not be restricted to insurance proceeds, if any, received by City, its elected officials, officers, employees, or agents.

16.1 Public Works Determination. Developer has been alerted to the requirements of California Labor Code section 1770 et seq., including, without limitation S.B. 975, which require the payment of prevailing wage rates and the performance of other requirements if it is determined that this Agreement constitutes a public works contract. It shall be the sole responsibility of Developer to determine whether to pay prevailing wages for any or all work required by this Agreement. As a material part of this Agreement, Developer agrees to assume all risk of liability arising from any decision not to pay prevailing wages for work required by this Agreement.

17.0 Insurance.

17.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during construction of any Public Improvement pursuant to this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

17.1.1 General Liability. Developer and its contractors shall procure and maintain occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than $1,000,000 per occurrence for bodily injury, personal injury, and property damage.

17.1.2 Business Automobile Liability. Developer and its contractors shall procure and maintain business automobile liability insurance, or equivalent form, with a combined single limit of not less than $1,000,000 per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any vehicle owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

17.1.3 Workers' Compensation. Developer and its contractors shall procure and maintain workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than $1,000,000 per occurrence, at all times during which insured retains employees.

17.1.4 Professional Liability. For any consultant or other professional who will engineer or design the Public Improvements, liability insurance for errors and omissions with limits not less than $1,000,000 per occurrence, shall be procured and maintained for a period of five (5) years following completion of the Public Improvements. Such insurance shall be endorsed to include contractual liability.

17.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial

guarantee satisfactory to City guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

17.3 Additional Insured; Separation of Insureds. The Required Insurance, other than workers' compensation, shall name City, its elected officials, officers, employees, agents, and volunteers as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including materials, parts, or equipment furnished in connection therewith. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to City, its elected officials, officers, employees, agents, and volunteers.

17.4 Primary Insurance; Waiver of Subrogation. The Required Insurance shall be primary with respect to any insurance or self-insurance programs covering City, its elected officials, officers, employees, agents, and volunteers. All policies for the Required Insurance shall provide that the insurance company waives all right of recovery by way of subrogation against City in connection with any damage or harm covered by such policy.

17.5 Certificates; Verification. Developer and its contractors shall furnish City with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by City before work pursuant to this Agreement can begin. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

17.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on 30 days prior written notice to City.

17.7 Insurer Rating. Unless approved in writing by City, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least A:VIII.

18.0 Signs and Advertising. Developer understands and agrees to City's ordinances, regulations, and requirements governing signs and advertising structures. Developer hereby agrees with and consents to the removal by City of all signs or other advertising structures erected, placed, or situated in violation of any City ordinance, regulation, or other requirement. Removal shall be at the expense of Developer and its surety. Developer and its surety shall indemnify and hold City free and harmless from any claim or demand arising out of or incident to signs, advertising structures, or their removal.

19.0 Relationship Between the Parties. The Parties hereby mutually agree that neither this Agreement, nor any other related entitlement, permit, or approval issued by City for the Property shall operate to create the relationship of partnership, joint venture, or agency between City and Developer. Developer's contractors and subcontractors are exclusively and solely under

the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of City.

20.0 General Provisions.

20.1 Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

20.2 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

20.3 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and subcontractors of Developer, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

20.4 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

CITY OF MILPITAS
455 E. Calaveras Boulevard
MILPITAS, CA 95035
Attn: Steve Erickson, PE
Director of Engineering/City Engineer

DEVELOPER:
Sango Court, L.P.
c/o Resources for Community Development
2220 Oxford Street,
Berkeley, CA 94904
Attn: Daniel Sawislak, Executive Director

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

20.5 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

20.6 Waiver. City's failure to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or City's waiver of any breach of this Agreement, shall not relieve Developer of any of its obligations under this Agreement, whether of the same or similar type. The foregoing shall be true whether City's actions are intentional or unintentional. Developer agrees to waive, as a defense, counterclaim or set off, any and all defects, irregularities or deficiencies in the authorization, execution or performance of the Public Improvements or this Agreement, as well as the laws, rules, regulations, ordinances or resolutions of City with regards to the authorization, execution or performance of the Public Improvements or this Agreement.

20.7 Assignment or Transfer of Agreement. Developer shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without prior written consent of City. Any attempt to do so shall be null and void, and any assignee, hypothecatee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation, or transfer. Unless specifically stated to the contrary in City's written consent, any assignment, hypothecation, or transfer shall not release or discharge Developer from any duty or responsibility under this Agreement.

20.8 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

20.9 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

20.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

20.11 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of SANTA CLARA, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

20.12 Attorneys' Fees and Costs. If any arbitration, lawsuit, or other legal action or proceeding is brought by one Party against the other Party in connection with this Agreement or the Property, the prevailing party, whether by final judgment or arbitration award, shall be entitled to and recover from the other party all costs and expenses incurred by the prevailing party, including actual attorneys' fees ("Costs"). Any judgment, order, or award entered in such legal

action or proceeding shall contain a specific provision providing for the recovery of Costs, which shall include, without limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (a) post judgment motions and appeals, (b) contempt proceedings, (c) garnishment, levy, and debtor and third party examination, (d) discovery, and (e) bankruptcy litigation. This section shall survive the termination or expiration of this Agreement.

20.13 Counterparts. This Agreement may be executed in counterpart originals, which taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the day and year first above written.

CITY OF MILPITAS

By: _____
Steven G. McHarris
City Manager
City of MILPITAS

DEVELOPER

SANGO COURT, L.P.
a California limited partnership

By:RCD GP III LLC
General Partner

By: Resources for Community Development Sole Member and Manager

By: _____
DanielSawislak, Executive Director

APPROVED AS TO FORM:

By: _____
Christopher Diaz
City Attorney
City of MILPITAS

APPROVED AS TO CONTENT:

By: _____
Lauren Pai, CPA,MPA
Finance Director/Risk Manager
City of MILPITAS

APPROVED AS TO SUFFICIENCY:

By: _____
Steve Erickson, PE
Director of Engineering/City Engineer
City of MILPITAS

ATTEST:

By: _____
Wendy Wood
City Clerk
City of MILPITAS

NOTE: DEVELOPER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

All Capacity Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 22___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner (s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

All Capacity Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 22___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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Title(s)

- ☐ Partner (s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

EXHIBIT “A”

LEGAL DESCRIPTION OF PROPERTY

RCD HOUSING PROJECT

Real Property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

ALL OF PARCEL 5, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 22, 1974 IN BOOK 338 OF MAPS, AT PAGE(S) 42.

APN: 086-36-013

EXHIBIT "B"

LIST OF PUBLIC IMPROVEMENTS

RCD HOUSING PROJECT

ENCROACHMENT SITE IMPROVEMENTS ESTIMATED COSTS

Description	Qty	Unit	UNIT COST Sub	TOTAL Sub
ENCROACHMENT SITE IMPROVEMENTS				
SITE DEMOLITION	5,865	sf	1.16	$ 6,800.00
ROUGH GRADE	5,865	sf	11.41	$ 66,900
CITY STREET PAVING	5,865	sf	10.64	$ 62,414
CITY SIDEWALK	1,750	sf	16.80	$ 29,409
CITY CURB AND GUTTER	513	lf	83.44	$ 42,804
CITY DRIVEWAY APPROACH	209	sf	20.04	$ 4,189
CITY STORM & SEWER (4")	37	lf	225.00	$ 8,325
MANHOLES (1 SSMH)	2	ea	15,000.00	$ 30,000
DOMESTIC WATER (8")	40	lf	300.00	$ 12,000
WATER SERVICE LINE (2")	44	lf	175.00	$ 7,700
WATER SERVICE LINE (4")	137	lf	225.00	$ 30,825
STRIPING/ PARKING STRIPING	1	ls	850.00	$ 850
DOMESTIC WATER LINE (12")	25	lf	425.00	$ 10,625
SEWER LINE (8")	44	lf	350.00	$ 15,400
STORM LINE (15")	260	lf	450.00	$ 117,000
SPECIAL STORM-SEWER MANHOLE #1 (sheet 9)	1	ea	15,000.00	$ 15,000
SLURRY SEAL ENTIRE CUL-DE-SAC	30,650	sf	0.90	$ 27,700
FIRE WATER (6")	162	lf	200.00	$ 32,400
FIRE HYDRANT	2	ea	16,500.00	$ 33,000
JOINT TRENCH	260	lf	200.00	$ 52,000
CATV	173	lf	185.00	$ 32,005
UTILITY BOXES	3	ea	3,500.00	$ 10,500
TRAFFIC CONTROL	1	ls	2,500.00	$ 2,500
CLEANOUT	1	ea	1,850.00	$ 1,850
RECLAIMED WATER	924	lf	575.00	$ 531,300
VALVES FOR 8' RECYCLED MAIN	3	ea	2,500.00	$ 7,500
BLOW-OFF VALVE	1	ea	3,000.00	$ 3,000
BIO-FILTRATION PLANTER	384	sf	17.86	$ 6,857
BIO-FILTRATION PLANTER WALLS	140	lf	23.39	$ 3,275
STORMWATER TRASH CAPTURE INLET AT PLANTER	2	ea	1,200.00	$ 2,400
PLANTING & STREET TREES	1	ls	31,415.00	$ 31,415
IRRIGATION	1	ls	10,519.00	$ 10,519
ON-GRADE PLANTER (no planter walls)	192	sf	35.29	$ 6,775
SERVICE CONNECTION (list type and qty, including valves)				
Domestic Water - Street Connection	2	ea	3,000.00	$ 6,000
Fire Water - Street Connection	4	ea	3,000.00	$ 12,000
Recycled Water - Connection to existing	1	ea	6,000.00	$ 6,000
Storm Drain - Connection to existing	1	ea	4,500.00	$ 4,500
Sanitary Sewer - Connection to existing	1	ea	3,500.00	$ 3,500
STREETLIGHT CONDUIT EXTENSION	150	lf	35.00	$ 5,250
STREETLIGHT	4	ea	21,250.00	$ 85,000
ADJUST EXISTING UTILITY BOXES TO GRADE	1	ls	950.00	$ 950
DRIVEWAYS	267	sf	13.66	$ 3,647
PEDESTRIAN TRAIL	1,537	sf	44.51	$ 68,408
STABALIZED DG AND EDGING AT PEDESTRIAN TRAIL	1	ls	10,864.00	$ 10,864
ENCROACHMENT SITE IMPROVEMENTS SUBTOTAL				**$ 1,461,355**
			PROPERTY LIABILITY & DAMAGE / 1000	$ 24,843.04
			NIBBI OVERHEAD & PROFIT (4%)	$ 59,448
			NIBBI PAYMENT & PERFORMANCE BOND	$ 10,229
			CONSTRUCTION CONTINGENCY (2%)	$ 29,227
			TOTAL	**$ 1,585,103**

EXHIBIT "C"

SURETY BONDS AND OTHER SECURITY

RCD HOUSING PROJECT

As evidence of understanding the provisions contained in this Agreement, and of the Developer's intent to comply with same, the Developer has submitted the below described security in the amounts required by this Agreement, and has affixed the appropriate signatures thereto:

PERFORMANCE BOND PRINCIPAL AMOUNT: $ 1,585,103
Surety: _____
Attorney-in-fact: _____
Address: _____
_____
_____

MATERIAL AND LABOR BOND PRINCIPAL AMOUNT: $ 1,585,103
Surety: _____
Attorney-in-fact: _____
Address: _____
_____
_____

BOND NO. _____
INITIAL PREMIUM: _____
SUBJECT TO RENEWAL

CITY OF MILPITAS

RCD HOUSING PROJECT IMPROVEMENTS

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the City of MILPITAS, California ("City") and _____ _____ ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all labor, materials, tools, equipment, services, and incidentals for all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities for the RCD Housing Project ("Public Improvements");

WHEREAS, the Public Improvements to be performed by Principal are more particularly set forth in that certain Agreement for Completion of Pubic Improvements dated _____, _____ ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required by the Improvement Agreement to provide a good and sufficient bond for performance of the Improvement Agreement, and to guarantee and warranty the Public Improvements constructed thereunder.

NOW, THEREFORE, Principal and _____ ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City in the sum of _____ dollars ($_____), said sum being not less than one hundred percent (100%) of the total cost of the Public Improvements as set forth in the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Improvement Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless City, its officers, employees, and agents,

as stipulated in the Improvement Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Public Improvements to be constructed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

This bond is executed and filed to comply with Section 66499 et seq. of the Government Code of California as security for performance of the Improvement Agreement and security for the one-year guarantee and warranty of the Public Improvements.

IN WITNESS WHEREOF, the seal and signature of the Principal is hereto affixed, and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at _____, this _____ day of _____, _____.

(Corporate Seal)

_____
Principal

By_____

Title Executive Director
_____

(Corporate Seal)

_____
Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title_____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is $_____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety) _____
_____
_____

(Name and Address of Agent or Representative for service of process in California, if different from above) _____
_____
_____

(Telephone number of Surety and Agent or Representative for service of process in California) _____

BOND NO. _____
INITIAL PREMIUM: _____
SUBJECT TO RENEWAL

CITY OF MILPITAS

RCD HOUSING PROJECT IMPROVEMENTS

LABOR AND MATERIAL BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the City of MILPITAS, California ("City") and _____ _____ ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all labor, materials, tools, equipment, services, and incidentals for all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities for the RCD Housing Project ("Public Improvements");

WHEREAS, the Public Improvements to be performed by Principal are more particularly set forth in that certain Agreement for Completion of Pubic Improvements dated _____, 2021("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required to furnish a bond in connection with the Improvement Agreement providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for, or about the performance of the Public Improvements, or for any work or labor done thereon of any kind, or for amounts due under the provisions of Title 3 (commencing with section 9000) of Part 6 of Division 4 of the California Civil Code, with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, Principal and _____ ("Surety"), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City and to any and all contractors, subcontractors, material suppliers, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the Public Improvements, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to the Public Improvements to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid excepting the Principal, the sum of _____ dollars, ($_____), said sum being not less than 100% of the

total cost of the Public Improvements under the terms of the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Public Improvements, or for work or labor thereon of any kind, or fail to pay any of the persons named herein, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

This bond is executed and filed to comply with Section 66499 et seq. of the California Government Code as security for payment to contractors, subcontractors, and persons furnishing labor, materials, or equipment for construction of the Public Improvements or performance of the Improvement Agreement. It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Public Improvements to be constructed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

IN WITNESS WHEREOF, the seal and signature of the Principal is hereto affixed, and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at _____, this _____ day of _____, _____.

(Corporate Seal)

_____
Principal

By_____

Title_____

(Corporate Seal)

_____
Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title_____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is $_____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety) _____
_____
_____

(Name and Address of Agent or Representative for service of process in California, if different from above) _____
_____
_____

(Telephone number of Surety and Agent or Representative for service of process in California) _____

All Capacity Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 21___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner (s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

All Capacity Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 21___, before me, _____, Notary Public, personally

appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner (s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Motion to Reconfirm Findings and Determinations Under Resolution No. 9105 and Assembly Bill 361 for the Continuation of Virtual Meetings**
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	2/1/2022
Staff Contact:	**Christopher J. Diaz, City Attorney, (408) 586-3040**
Recommendation:	Move to reconfirm findings and determinations under Resolution No. 9105 and Assembly Bill 361 for the continuation of virtual meetings.

Background:

On March 17, 2020, in the face of the COVID-19 pandemic, Governor Gavin Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means.

The provisions in the Brown Act that were suspended by the Governor's Executive Order are contained at Government Code Section 54953(b)(3) and require that when teleconferencing is used, outside of a statewide emergency, that the following occur:

- An agenda is required to be posted at all locations, including any teleconference locations
- Each teleconference location must be identified on the actual agenda
- Each teleconference location shall be accessible to the public
- A quorum of the legislative body must be in the jurisdiction

With the Governor's Executive Order, the four above requirements were suspended, allowing Councilmembers to not have to post an agenda at their teleconference location, not have to identify their location on the meeting agenda, not have to ensure public accessibility at the teleconference location, and the legislative body did not need a quorum present in the jurisdiction. As the Council is well aware, this allowed all City Council meetings and other meetings of legislative bodies of the City to be conducted by Zoom with councilmembers, commission members, committee members, and staff all joining from remote virtual locations.

The suspension of certain provisions of the Brown Act was further extended by the Governor on June 11, 2021 by the issuance of Executive Order N-08-21 which continued to allow for complete virtual meetings until September 30, 2021.

With the expiration of the Governor's Executive Order and the uncertainty that surrounded the Governor's potential recall, the State Legislature also took the remote meeting issue into its own hands through the adoption of Assembly Bill 361, which is explained in more depth in the Analysis section below.

On October 5, 2021, the City Council adopted Resolution No. 9105, making findings that there is an existing State of Emergency and that state or local officials continue to recommend social distancing measures to prevent the spread of COVID-19. In particular, the resolution included reference to Cal-OSHA regulation 3205, which

recommends physical distancing in the workplace. By motion and majority vote, the City Council may reconfirm the findings of Resolution No. 9105 and continue to hold virtual meetings pursuant to AB 361.

Analysis:
On September 16, 2021, the Governor signed AB 361, which allows legislative bodies to meet virtually provided there is a state of emergency declared by the Governor, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees. The Governor by executive order signed on September 20, 2021, suspended the effective date of AB 361 to October 1, 2021. As a result, if the City desires to have virtual meetings on or after October 1, 2021, it must do so consistent with the requirements of AB 361.

AB 361 preserves many of the provisions of the earlier executive orders, including the suspension of the four teleconferencing requirements noted above, while also adding new requirements to the management of remote and teleconference public meetings in order to better achieve the levels of transparency that the Brown Act demands. Specifically, AB 361 imposes two new rules on remote public meetings:

1. Local governments and agencies hosting teleconference meetings in lieu of traditional in-person public meetings must permit direct public comment during the teleconference, and must leave open the opportunity for public comment until the comment period for a given item is closed during the ordinary course of the meeting. The opportunity to make public comment must be of a sufficient duration so as to allow actual public participation.

2. Any action by the governing body during a public teleconference meeting must occur while the agency is actively and successfully broadcasting to members of the public through a call-in option or an internet-based service option. If a technical disruption within the agency's control prevents members of the public from either viewing the meeting of the public agency, or prevents members of the public from offering public comment, the agency must cease all action on the meeting agenda until the disruption ends and the broadcast is restored. Action taken during an agency-caused disruption may be challenged as a violation of the Brown Act.

In order to continue to qualify for AB 361's waiver of in-person meeting requirements, the City Council must, within thirty (30) days of its first meeting under AB 361, and every thirty (30) days thereafter, make findings that (a) state or local officials continue to recommend measures to promote social distancing, or that (b) an in-person meeting would constitute an imminent risk to the safety of attendees.

The above conditions continue to exist at this time, and staff recommends that the City Council by motion reconfirm the findings made in Resolution No. 9105 so that the City Council and all other subordinate legislative bodies may continue to meet virtually.

Lastly, it is important to that AB 361 is optional. If the City Council wishes, it may meet in person. In addition, hybrid meetings are permissible. However, according to City Management, there is not a hybrid option for Commissions, Committees and Task Forces at the City. Thus, regardless of whether the City Council may prefer to meet in person, City Management is recommending that the City Council reconfirm the findings in the resolution to ensure all other Commission, Committee, and Task Force meetings can continue to meet and allow the public to meet remotely without risking public health.

Policy Alternatives:
Alternative 1: Do not by motion reconfirm the findings made in the resolution making findings and determinations under Assembly Bill 361 for the continuation of virtual meetings**.**

Pros: None
Cons: Many of the existing Commission, Committee, and Task Force meetings will not be able to meet virtually or through a hybrid format forcing all staff, commission or committee members, and the public to attend meetings in person.

Reason not recommended: The COVID-19 pandemic continues to be a global health issue and by forcing commission, committee, and task force meetings to be in person, public health may be put at risk.

Fiscal Impact:
The City Council's reconfirmation of the findings made in the resolution to continue with virtual meetings will maintain the status quo and no financial impact is anticipated by the reconfirmation of the findings.

California Environmental Quality Act:
The City Council's reconfirmation of the findings made in the resolution is not a project under the California Environmental Quality Act (CEQA) Guideline 15378(b)(5) as it constitutes an organizational or administrative activity of the government that will not result in direct or indirect physical changes in the environment. Further, virtual meetings are likely to reduce certain impacts associated with vehicular travel related to in-person public meetings.

Recommendation:
Move to reconfirm findings and determinations under Resolution No.9105 and Assembly Bill 361 for the continuation of virtual meetings

Attachment
Resolution 9105

RESOLUTION 9105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS AND DETERMINATIONS UNDER AB 361 FOR THE CONTINUATION OF VIRTUAL MEETINGS

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*) generally requires local agencies meeting via teleconference, including through other virtual or electronic means, to, among other things, provide public access at each location in which members of the legislative body are teleconferencing; and

WHEREAS, the Legislature recently enacted Assembly Bill 361 (AB 361), which amended Government Code section 54953 to allow local agencies to meet fully virtually, without fully adhering to the rules otherwise applicable to teleconferencing, during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect; and

WHEREAS, the City Council of the City of Milpitas has considered the circumstances of the state of emergency; and

WHEREAS, state or local officials continue to recommend measures to promote social distancing to prevent the spread of COVID-19, in particular, Cal-OSHA regulation 3205 recommends physical distancing in the workplace generally and regulates a "close contact" defined as being within 6 feet of another under certain circumstances; and

WHEREAS, in order to continue to impose social distancing while holding in-person meetings there is a high likelihood that members of the public would not all be able to be present in the meetings spaces; and

WHEREAS, the continuation of virtual meetings will allow for full participation by members of the public until social distancing recommendations are no longer necessary; and

WHEREAS, the City Council of the City of Milpitas desires that all City legislative bodies continue to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e).

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

1. The City Council has considered the full record before it, 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 it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Council and all other legislative bodies of the City of Milpitas who are required to hold public meetings, shall continue to meet virtually in accordance with Government Code section 54953(e) and without compliance with section 54953(b)(3) based upon the findings and determinations hereby made by the City Council.

PASSED AND ADOPTED this 5th day of October 2021, by the following vote:

AYES: (5) Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:

Wendy Wood, City Clerk

APPROVED:

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Move to waive the second reading beyond the title and adopt Ordinance No. 297.1 amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance)
Category:	Consent Calendar-Community Development
Meeting Date:	2/1/2022
Staff Contact:	Sharon Goei, Building Safety and Housing Director, 408-586-3260
Recommendation:	Move to waive the second reading beyond the title and adopt Ordinance No. 297.1 amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance).

Background:
At the January 18, 2022 City Council meeting, Council conducted the first reading and introduced Ordinance No. 297.1 to amend the Affordable Housing Ordinance to encourage more on-site affordable housing production and to add clarity and consistency throughout the ordinance. A detailed discussion of the key changes can be found in the January 18, 2022 agenda report.

Ordinance No. 297.1 is now ready for second reading and adoption.

Fiscal Impact:
There is no fiscal impact in conducting the second reading and adopting the ordinance.

California Environmental Quality Act:
The second reading and adoption of this Ordinance is (1) not a Project under the California Environmental Quality Act (CEQA) and is therefore exempt, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(4)4), that adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (2) statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing; (3) not intended to apply to specifically identified affordable housing projects and as such it is speculative to evaluate any such future project now and, moreover, they will be subject to appropriate environmental review at such time as approvals for those affordable housing project are considered; and/or (4) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment or payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

Recommendation:
Move to waive the second reading beyond the title and adopt Ordinance No. 297.1 amending Milpitas Municipal Code Title XII, Chapter 1 (Affordable Housing Ordinance).

Attachment:
Ordinance No. 297.1 for adoption

REGULAR

NUMBER: 297.1

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING TITLE XII, CHAPTER 1 OF THE MILPITAS MUNICIPAL CODE RELATING TO AFFORDABLE HOUSING AND MAKING CEQA EXEMPTION FINDINGS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of January 18, 2022, upon motion by Councilmember Chua and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Wendy Wood, City Clerk

APPROVED:

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the Bay Area is experiencing a severe housing crisis, especially in providing housing affordable to very low, low and moderate-income households; and

WHEREAS, existing local, state and federal resources are insufficient to meet the City of Milpitas' needs for affordable housing; and

WHEREAS, the City's 2015-2023 Housing Element provides that the City will facilitate the development of new affordable housing units, and

WHEREAS, the courts have recognized that a city can impose requirements to include that new developments include a percentage of affordable housing units as a valid exercise of the city's police power;

WHEREAS, in 2017, the State of California enacted AB 1505, codified at California Government Code §§ 65850-65850.1, which supersedes the court's ruling in *Palmer/Sixth Street Properties v. City of Los Angeles,* and establishes that cities can adopt ordinances requiring that rental housing development include a percentage of units affordable to very low, low or moderate income households; and

WHEREAS, on June 19, 2018, the City Council adopted Ordinance No. 297 adding Title XII, Chapter 1 to the Milpitas Municipal Code (the Affordable Housing Ordinance) to establish inclusionary affordable housing requirements and a fee program to foster the development of affordable housing projects within the City and the region; and

WHEREAS, the adoption of the Affordable Housing Ordinance has been effective in furthering the City's affordable housing goals, and has resulted in the development of additional affordable housing units within the City; and

WHEREAS, in addition to ensuring that affordable housing units are built within the City, the City Council desires to ensure that affordable housing developed within the City is integrated with new market rate housing development and not segregated to select areas of the City; and

WHEREAS, in order to ensure that affordable housing constructed pursuant to the Affordable Housing Ordinance is integrated into new market rate residential development to the greatest extent possible, the City Council directed staff to prepare an amendment to the Affordable Housing Ordinance to incentivize and ensure on-site development of affordable housing to the extent possible, and to make other clarifying amendments to the Affordable Housing Ordinance; and

WHEREAS, consistent with Council direction, City staff prepared proposed amendments to the Affordable Housing Ordinance to strengthen the City Council's required findings before allowing alternative means of compliance for ownership housing and incentivizing developers to build affordable units on-site, while still retaining alternative means of compliance with the Affordable Housing Ordinance in order to maintain flexibility and ensure that the Affordable Housing Ordinance will not serve as an impediment to residential development in the City; and

WHEREAS, on December 8, 2021, City staff posted the proposed amendments to the Affordable Housing Ordinance on the City's website along with a written summary of the proposed changes, and City staff thereafter presented the proposed amendments to the Affordable Housing Ordinance to

stakeholders in the local development community as part of a Community Development Roundtable meeting on December 16, 2021, and received feedback on the proposed amendments from those stakeholders; and

WHEREAS, on December 17, 2021, City staff hosted a virtual community meeting to gather input from the broader community and residents on proposed amendments to the Affordable Housing ordinance. City staff presented the proposed amendments at this meeting and received feedback from the members of the community; and

WHEREAS, on January 18, 2022, the City Council held a duly noticed public meeting and considered the proposed amendments to the Affordable Housing Ordinance as set forth in this Ordinance, together with all other information relevant to evaluation and adoption of this Ordinance, including but not limited to the staff materials provided herewith, staff presentations and all oral and written communications received at or before the duly noticed public meeting; and

WHEREAS, this Ordinance is consistent with the Milpitas General Plan as a whole and implements the Milpitas adopted Housing Element, as well as other General Plan goals, policies and programs.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which includes but is not limited to all City staff reports, including reports presented to the City Council, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are an integral part of the Council's decision and are hereby adopted as findings and incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XII, CHAPTER 1

Chapter 1 of Title XII of the Milpitas Municipal Code is hereby amended to read as follows:

TITLE XII - HOUSING

CHAPTER 1 - AFFORDABLE HOUSING ORDINANCE

Section 1 - Purpose

This Chapter shall be known as the "Affordable Housing Ordinance."

XII-1-1.00 - Purpose

Purpose of this Chapter is to:

(a) Enhance the public welfare and assure that further housing development contributes to the attainment of the City's housing goals by increasing the production of residential units affordable by households of very low, low and moderate income.

(b) Assure that the limited remaining developable land in the City's planning area is utilized in a manner consistent with the City's housing policies and needs.

XII-1-1.01 - Applicability

All land use entitlement applications not determined or deemed "complete" as defined in Government Code Section 65943 by the effective date of the ordinance are subject to the requirements of this Chapter.

Section 2 - Definitions

XII-1-2.00

As used in this Chapter, each of the following terms shall be defined as follows:

XII-1-2.01

“Accessory dwelling unit” shall have the meaning set forth in Section XI-10-13.8 of this Code.

XII-1-2.02

"Affordable Housing Cost" means the maximum amount that a household may be required to pay to live in an affordable unit. The City shall determine affordable housing costs for each affordable unit type within a proposed development at the time of project approval, and the affordable housing cost may be adjusted annually to reflect the current area median income for Santa Clara County.

For rental units, Affordable Housing Cost shall be an annual rent amount, inclusive of an allowance for tenant payment of utilities, that does not exceed 30% of maximum gross income level for very low or low income households as defined herein (as applicable to the affordable unit), adjusted for household size.

For ownership units, Affordable Housing Cost shall be a sales price that results in annual housing expenses that do not exceed 35% of the maximum gross income level for very low, low or moderate income households as defined herein (as applicable to the affordable unit) adjusted for household size.

The City may adopt administrative guidelines to establish criteria to be utilized in calculating affordable housing cost pursuant to this Section.

XII-1-2.03

"Affordable Housing Fund" or "Fund" means a fund established pursuant to the Chapter as described in Section XII-1-8.00, et seq., and in which all fees collected through this Chapter shall be placed.

XII-1-2.04

"Affordable unit" means an ownership or rental dwelling unit, including senior housing, that is rented or sold at an affordable housing cost to households with very low, low, or moderate incomes as defined in this Chapter, provided, however, that an accessory dwelling unit shall not be counted as an

affordable unit for purposes of satisfying the affordability requirements set forth in Section 3 of this Chapter.

XII-1-2.05

"Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities (including but not limited to a "developer") that seeks city real property development permits or approvals or bears any responsibility with respect to the subject real property.

XII-1-2.06

"Dwelling unit" means a dwelling designed and intended for occupancy by one household.

XII-1-2.07

"Low Income Household" shall have the same definition as set forth for the term “lower income household: in California Health & Safety Code section 50079.5. The income limits for low income households in Santa Clara County are published and updated periodically by the State Department of Housing and Community Development in California Code of Regulations, Title 25, Section 6932.

XII-1-2.08

“Mixed Use Development” means a development that includes residential and non-residential uses in a vertical or horizontal orientation. All of the provisions of this Chapter that pertain to residential development shall apply to the residential uses and all of the provisions of Section 5 of this Chapter shall apply to the non-residential uses, respectively.

XII-1-2.09

"Moderate Income Household" shall have the definition as set forth in California Health & Safety Code section 50093(b). The income limits for moderate income households in Santa Clara County are published and updated periodically by the State Department of Housing and Community Development in California Code of Regulations, Title 25, Section 6932.

XII-1-2.10

"Non-Residential development project" means any planned district, subdivision map, conditional use permit or other discretionary or non-discretionary City land use approval, which authorizes new construction of gross square feet of nonresidential space, the conversion of residential use to a nonresidential use, or the conversion of exempt space to non-exempt space, including, but not limited to, retail, hotel, motel (including motel, motor hotel, inn and auto court), office, professional office, other commercial, light industrial, data centers and warehouses.

XII-1-2.11

“On-site” means that the affordable units are provided within the boundaries of the proposed development

XII-1-2.12

"Residential Ownership Project" means any residential project that includes the creation of residential dwelling units that may be sold individually. A residential ownership project also includes condominium conversions.

XII-1-2.13

"Residential Rental Project" means a residential project or property under common ownership, or portion thereof that creates living units that cannot be sold individually.

XII-1-2.14

"Resale controls and/or rent restrictions" means legal restrictions by which the affordable units shall be restricted to ensure that the unit remains affordable to very low, low, or moderate income households, as applicable, for a period of not less than 55 years. With respect to rental units, such rent restrictions shall be in the form of a regulatory agreement recorded against the applicable property. With respect to owner-occupied units, such resale controls shall be in the form of resale restrictions, deeds of trust, and/or other similar documents recorded against the applicable property.

XII-1-2.15

"Residential development" includes, without limitation, detached single-family dwellings, multiple-dwelling structures, groups of dwellings, condominium or townhouse developments, condominium conversions, cooperative developments, mixed use developments that include dwelling units, and residential land subdivisions intended to be sold to the general public.

XII-1-2.16

"Very Low Income Household" shall have the definition as set forth in California Health & Safety Code section 50105. The income limits for very low income households in Santa Clara County are published and updated periodically by the State Department of Housing and Community Development in California Code of Regulations, Title 25, Section 6932.

Section 3 - Minimum Residential Development General Requirements

XII-1-3.00 - 15 Percent Affordability Requirement

All new residential development projects of ten units or more designed and intended for permanent occupancy shall construct 15 percent of the total number of dwelling units within the development as affordable units, except as otherwise provided by this Chapter. Accessory dwelling units shall not be included to calculate the total number of dwelling units that must be constructed pursuant to this section. The foregoing requirement shall be applied no more than once to an approved development (and generally at the tentative map stage), regardless of the changes in the character or ownership of the development, provided the total number of units does not change. If the 15 percent calculation results in a fractional unit that is less than 0.5 (i.e., less than half a unit), the developer may pay an in-lieu fee for that fractional unit, as more specifically outlined in Section 4 of this Chapter. A fractional unit equal to 0.5 or greater shall be rounded up, and the project must provide one affordable unit on-site to satisfy any fractional obligation where an in-lieu fee is not paid.

XII-1-3.01 - Allocation of units to income levels

Affordable units provided pursuant to this Section shall be allocated to households with a minimum percentage of very low, low, and moderate income levels as follows:

	Rental Units	Ownership Units
Very low or low income households	100%	0%
Very low, low or moderate income households	0%	100%

XII-1-3.02 - Conditions of approval

Any tentative map, conditional use permit, or site development review approving residential or mixed-use development projects subject to this Chapter shall contain conditions sufficient to ensure compliance with the provisions of this Chapter. Such conditions shall detail the number of affordable units required, specify the schedule of construction of affordable units, set forth the applicant's manner of compliance with this Chapter, and require the execution of an agreement imposing appropriate resale controls and/or rental restrictions on the affordable units. Any omission or failure to adopt conditions of approval or any of the details or other specifications regarding compliance with this Chapter shall not waive the City's rights to enforce any provision, nor relieve any applicant of its obligations to comply with, all requirements of this Chapter.

At the time of filing a planning application for a residential development subject to this article, the developer shall provide the following information in addition to information specified elsewhere for the applicable planning permit(s):

1. The number of market rate and affordable units proposed on-site, which should include the distribution of units by bedroom size (i.e., studio, one bedroom, two bedroom, etc.) for the total project, market rate units, and affordable units.
2. The tenure of the market rate and affordable units.
3. Gross square footage of building by each use including parking uses.
4. Gross square footage of project’s proposed total residential area and gross square footage of existing residential area.
5. Gross square footage of project’s proposed non-residential floor area, gross square footage of existing non-residential floor area that will remain as is, and any square footage of new or proposed to be converted non-residential floor area that is exempt from paying affordable housing impact fees pursuant to Section 5 of this Chapter.
6. Habitable square feet for residential units, and net residential square feet of the total project, affordable units and market rate units.
7. The unit sizes (net residential square feet per unit) for the total project, market rate units, and affordable units.
8. The proposed location of the market rate and affordable units by building and location on each floor of a building.
9. Any interior amenities in the affordable units that would differ from market rate units, including, but not limited to, floor coverings, appliances, plumbing and electrical fixtures.
10. The schedule for production of affordable units in phased residential development.

11. Any exceptions or alternatives proposed to comply with this article, including reasons why the findings required to approve such exceptions or alternatives can be met.

XII-1-3.03 - Concurrent construction of affordable units

All affordable units in a project or phase of a project shall be constructed prior or concurrently with market-rate units, unless the City Manager or designee determines in writing that extenuating circumstances exist that make concurrent construction infeasible or impractical. In phased developments, the affordability requirement will be calculated on the basis of the whole development, but affordable units shall be developed in advance or concurrently with market rate units in each phase unless the City Manager or designee determines in writing that extenuating circumstances exist that make concurrent construction infeasible or impractical. If this occurs, a schedule must be developed by the applicant and approved by the City Manager to ensure that affordable units are built expeditiously and before final discretionary permits are issued. Each phase must include the required number of affordable units based on the number of market-rate units in that phase, and on-site affordable housing units must be developed concurrently with the market-rate units in each phase.

XII-1-3.04 - Design and distribution of affordable units

Affordable units shall meet the following requirements:

1. The bedroom mix of the affordable units should be proportionate to the bedroom mix of market rate units, provided that the City may allow a different unit mix to meet other City goals as determined by the City Council.
2. The square footage of the affordable housing units must be reasonably consistent with the market rate units in the development although smaller unit sizes may be allowed by the Director or Building Safety and Housing if the developer provides adequate justification and reasons why the provision of small unit sizes would further the City's housing goals and this Chapter.
3. All affordable units shall be reasonably comparable in terms of floor plan and base finish amenities to market rate units in the proposed development.
4. The quality of the exterior design, landscaping, and construction of the affordable units shall be consistent with the other units in the proposed development. When affordable units are built off-site they shall be of equivalent or of higher quality compared with the market rate units.
5. Affordable units shall have the same access to common entrances from the exterior as market rate units;
6. Affordable units shall have the same access to all project amenities and recreational facilities available to market rate units. Off-site projects shall have convenient access to equivalent project amenities and recreational facilities compared to the market rate units.
7. All affordable units shall be reasonably dispersed throughout the project and for residential structures higher than eight stories, the affordable units shall be evenly distributed throughout the bottom 60% of the floors or higher.

Section 4 - Exceptions to On-Site Development of 15 Percent Affordable Units

Project applicants' projects shall construct 15 percent of the total number of dwelling units within any development as affordable units, except as provided pursuant to this Section. All exceptions to the requirement to construct affordable units on-site for a project with ownership units shall require City Council approval, which shall be obtained at or prior to the last discretionary approval for development of the project.

A. Ownership Projects: The City may allow an exception to the requirement to construct on-site affordable units for a residential ownership project when the applicant contributes to the City's affordable housing needs through one of the alternatives set forth in Subsections XII-1-4.00-XII-1-4.02, provided that prior to City Council approval to the requested exception, the City Council must make the following findings:

1. The development as proposed with the exception as provided pursuant to this Section would further the City's low and/or moderate income housing goals as contained in the Housing Element; and

2. The development with the exception either (i) will result in at least two of the following;

a. The development of a larger number of deed-restricted affordable units than would be created under the on-site requirement;

b. The development of a larger number of deed-restricted affordable bedrooms than would be created under the on-site requirement;

c. The development of a larger amount of deed restricted affordable living area than would be created under the on-site requirement;

d. The development of deed-restricted affordable units at a lower average income target as compared to the affordable units that would be created under the on-site requirement;

or (ii) will provide other community benefits that exceed the benefit of constructing on-site affordable units.

B. Rental Projects: The City may allow an exception to the requirement to construct on-site affordable units for a residential rental project if requested by the applicant, provided that as a condition of such exception that applicant shall be required to contribute to the City's affordable housing needs through one of the alternatives set forth in Subsections XII-1-4.00-XII-1-4.02.

XII-1-4.00 - Payment of fees in lieu of creation of affordable units

Upon request of the applicant and subject to the requirements of this Section 4 as set forth above, the City Council may permit the applicant to pay a fee in lieu of constructing the affordable units that the applicant would otherwise be required to construct pursuant to this Chapter. In-lieu fees shall also be paid for requirements to construct fractional units of less than 0.5 units as set forth in Section XII-1-3.00. The City shall adopt, by resolution, current affordable housing in-lieu fee levels as well as administrative guidelines necessary for the implementation of this Chapter.

Fees paid in-lieu of constructing affordable units must be paid prior to the issuance of the building permit for the project, and fees shall be deposited into the City's Affordable Housing Fund. The in-lieu fee shall be calculated based on the gross square footage constructed for each new residential use, taking into account any fee credits that would be applicable based on existing building area. While accessory dwelling units are not counted towards either calculating or meeting the 15% on-site affordable housing requirement pursuant to Section XII-1-3.00, any payment of in-lieu fees must be based on the total gross square footage of all dwelling units developed as part of the project, including any accessory dwelling units.

Unless otherwise specified by resolution of the City Council or amendment to this Chapter, every July 1, or the following business day, if applicable, the City will adjust the affordable housing fees for

inflation using the Engineering News Record Building Cost Index for San Francisco. If this index ceases to exist, the Director of Building Safety and Housing shall substitute another construction cost index, which in his/her judgment is as nearly equivalent to the original index as possible.

XII-1-4.01 - Off-site projects

Upon request of the applicant, the City Council may permit an applicant to comply with the requirements of this Chapter by constructing the affordable units not physically within the development but within the City of Milpitas in lieu of constructing some or all of the affordable units within the development, with the approval of the City Council, if the City Council finds that:

1. Construction of the units off-site in lieu of constructing units on-site is consistent with the Chapter's goal of creating, preserving, maintaining, and protecting housing for very low, low and moderate income households.

2. The units to be constructed off site are consistent with Section XII-1-3.04 above.

3. It would be infeasible or impractical to construct affordable units on-site.

4. Conditions of approval for the project require that the off-site affordable units would be governed by the terms of a deed restriction and, if applicable, rental restrictions similar to that used for the on-site affordable units.

5. The conditions of approval for the project, or other security such as a cash deposit, bond, or letter of credit, are adequate to require the construction of the off-site affordable units prior or concurrently with the completion of the construction of the residential development.

Affordable units can be built off-site using a different tenure than the subject development (i.e., rental affordable units for an ownership residential project) provided that the square footage of livable space of affordable units provided off-site is greater than what would be required on-site. In this case, the above requirements shall be met and the income-category shall be equivalent to or lower than what would be required for affordable units with the same tenure. The term of the affordable housing and/or resale restrictions shall be determined by the tenure of the affordable units and shall be consistent with sections XII-1-6.00 through XII-1-6.02 of this Chapter as applicable.

XII-1-4.02 - Land dedication

Upon request of the applicant, the City Council may permit an applicant to dedicate land within the City of Milpitas to the City or a City-designated local non-profit housing developer in lieu of construction of some or all of the required affordable units, if the Council finds that:

1. Dedication of land in lieu of constructing units is consistent with the Chapter's goal of creating, preserving, maintaining, and protecting housing for very low, low and moderate income households.

2. The dedicated land is zoned and useable for its intended purpose, is free of toxic substances and contaminated soils, and is fully improved, with infrastructure, adjacent utilities, grading, and all development-impact fees paid, including development-impact fees required by the Milpitas Unified School District but excluding any affordable housing ordinance fees.

3. The proposed land dedication property includes a minimum of _0.75 acres of developable area, and is of sufficient size and value to meet the following requirements:

a. The dedication property includes land sufficient to construct the number of units that the applicant would otherwise be required to construct by Section XII-1-3.00 based on (i) the size of lots in the subdivision for which the applicant is meeting its obligation if the applicant's project is an ownership project, or (ii) the size of the parcel needed to construct the required number of affordable units if the applicant's project is a rental project and assuming the affordable rental units are of comparable size to the market rate units; and

b. In addition, the dedication property includes additional land the market value for which is equal to or exceeds the difference between the value of a market-rate, 1200-square foot for-sale unit and the price at which such a unit could be sold as an affordable moderate income unit (which amount shall be set forth in a resolution adopted from time to time by the City Council) times the number of on-site affordable units that would otherwise be required for the development.

XII-1-4.03 - Waiver of requirements

As part of the development application, the applicant may request and the City Council, at its discretion, may waive, wholly or partially, the requirements of this Chapter and approve alternate methods of compliance with this Chapter if the applicant demonstrates, and the City Council finds, either (1) that such alternate methods meet the purposes of this Chapter and the Council can make the findings for such alternative methods as set forth in Section 4.A of this Chapter; or (2) that there is no reasonable relationship between the impact of the proposed development and the contested requirement or that applying the requirements of this Chapter would take property in violation of the United States Constitution or California Constitution or would result in any other unconstitutional result.

Section 5 - Non-Residential Affordable Housing Impact Fee

XII-1-5.01 - Applicability

Any non-residential development, applicable under the definition set forth in Section XII-1-2.05, is subject to payment of a non-residential affordable housing impact fee. The City shall adopt, by resolution, current non-residential affordable housing impact fee levels. Every July 1, or the following business day, if applicable, the City will adjust affordable housing fees for inflation annually using the Engineering News Record Building Cost Index for San Francisco. If this index ceases to exist, the Director of Building Safety and Housing shall substitute another construction cost index, which in his/her judgment is as nearly equivalent to the original index as possible.

The applicant shall pay the non-residential impact fees prior to issuance of the building permit. Applicable fees will be determined at time of payment. All payment of fees made to the City under this Chapter shall be deposited into the City Affordable Housing Fund.

XII-1-5.02 - Calculation of impact fee

The impact fee will be calculated on a per square foot basis for net new gross floor area. The formula below shall be used in calculating the amount of the housing impact fee: (Gross square feet of total non-residential floor area) minus (square feet of existing non-residential floor area) multiplied by (per square foot fee) equals (total housing impact fee).

XII-1-5.03 - Exemptions

The following non-residential uses that will be exempt from the fee include:

a. New construction of non-residential uses of less than 5,000 square feet.

b. Additions to existing non-residential uses where the square footage increase is less than 5,000 square feet.

c. Assembly uses.

d. Day care, nursery and school facilities.

e. Hospitals.

f. Other non-residential uses not listed above, but which the City Council determines will have a minimal impact upon the demand for affordable housing and to be exempt pursuant to City Council resolution.

Section 6 - General Procedures for Implementing Affordable Housing Requirements

XII-1-6.00 - Agreements

Prior to the City allowing occupancy for an affordable unit, resale restrictions or rental controls, or both, as the case may be, shall be set forth in an agreement between the City and the applicant, which agreement shall be recorded against the property containing the affordable units. The agreement shall be executed by the City Manager or designee, and its requirements shall run with the land and bind the applicant's successors. Covenants on the affordable units shall not be less than 55 years.

XII-1-6.01 - Rental units; occupancy; annual report

Agreements involving rental units shall require the owner of the affordable units to ensure that the units are occupied by tenants whose monthly income levels do not exceed very low-, low-, or moderate income levels, as the case may be, and shall preclude tenants from subletting or subleasing the unit. The agreement shall also require the owner of the affordable unit to submit an annual report to the City Manager, in a format approved by the City. The report shall include, but not be limited to the following information: an identification of the affordable units within the project; the monthly rents charged and proposed to be charged; vacancy information for the prior year; and the monthly income for tenants of each affordable unit throughout the prior year.

XII-1-6.02 - Ownership Units; Occupancy; City's Purchase Option

Agreements for ownership units shall specify that the inclusionary units must be occupied by the owner or owners and may not be leased or rented without the written approval of the City. The resale restrictions shall provide that in the event of the sale of an affordable unit, the City shall have the right to purchase any affordable owner-occupant unit at the maximum price that could be charged to an eligible household. Ownership units will have a 55-year resale restriction covenant with a purchase option to the City. Homeowners will be subject to the City's monitoring program for owner-occupancy.

XII-1-6.03 - Selection criteria

No household shall be permitted to occupy a unit that is required under this Chapter to be affordable unless the City Manager or designee has approved the household's eligibility. Eligible potential occupants of affordable units will be qualified on the basis of household income, the median combined household income statistics for Santa Clara County published periodically by the California

Department of Housing and Community Development, all sources of household income and assets, the relationship between household size and the size of available units, and any further criteria required by law. The applicant shall use an equitable selection method established in conformance with the terms of this Chapter and subject to approval by the City. The selection criteria may not distinguish between adults and children. Subject to the requirements of state and federal fair housing laws and regulations, the City shall endeavor to make housing available for Milpitas residents, former Milpitas residents who have been displaced, households with children enrolled in the Milpitas Unified School District that have inadequate housing as defined in the federal McKinney-Vento Homeless Assistance Act, and employees employed within the boundaries of the City of Milpitas, and may develop selection criteria to implement these goals. The applicant will pursue active marketing, conduct affordable housing workshops, extensive advertising and other measures to ensure that residents and employees are informed and educated about the availability of affordable units.

To qualify as "Employed within the boundaries of the City of Milpitas," the person shall currently be employed within the City of Milpitas or have been offered employment for a job within the City of Milpitas.

To qualify as a "Milpitas resident," the person shall have been a resident of the City of Milpitas for at least a one-year period prior to the eligibility determination. Residency may be demonstrated by providing a rent or utility bill, or similar documentation.

Section 7 - Incentives to Encourage On-Site Construction of Affordable Units

XII-1-7.00

Applicants shall receive incentives as specified in this Section to encourage the on-site construction of affordable units. If an applicant provides affordable units in excess of 20 percent of the total number of units in the project the City will provide the following incentives to include:

A. Planning Waivers. In addition to waivers, incentives and/or concessions that may be provided pursuant to density bonus law as outlined in Section XI-10-54.15 in the Milpitas Municipal Code if the applicant provides affordable units in excess of 20 percent of the total number of units in the development, the Director of Planning shall grant up to two of the waivers listed below in this Section that help increase the feasibility of the construction of affordable units. The applicant will receive an additional two waivers from the list below for every additional five percent of affordable units provided above the 20 percent. The applicant may choose from the following waivers:

1. Priority processing.

2. Reduced setback requirements not to exceed 50 percent of the minimum required setback.

3. Greater floor area ratio (FAR) not to exceed 50 percent of the maximum FAR for commercial space in mixed use zoning.

4. Reduced landscaping requirements.

5. Reduced interior or exterior amenities.

6. A maximum 20 percent reduction in parking requirements.

7. Height restriction waivers not to exceed 20 percent of the maximum zoning height limitations and in no event to exceed the general plan height limitations.

B. Fee Deferral.

1. Development Processing Fees. The City Manager may approve deferred payment of City processing fees applicable to the review and processing of the project. The terms and payment schedule of the deferred fees shall be subject to the approval of the City Manager.

2. Development Impact Fees. The City Manager may authorize the deferred payment of development impact fees applicable to the affordable units. Approval of this incentive requires demonstration by the Applicant that the deferral increases the project's feasibility. The applicant must provide appropriate security to ensure future payment of such fees.

Section 8 - Affordable Housing Fund

XII-1-8.00 - Affordable Housing Fund

In lieu fees shall be deposited into a fund known as the "Affordable Housing Fund" ("Fund").

XII-1-8.01 - Use of Funds

All monies in the Fund, together with any interest earnings on such monies less reasonable administrative charges, shall be used or committed to use by the City for the purpose of providing very low, low , and moderate income ownership or rental housing in the City of Milpitas.

Section 9 - Violations

XII-1-9.00

It shall be unlawful for any person, firm, corporation, partnership or other entity to violate or fail to comply with any provision of this Chapter. In addition to other fines, penalties or other remedies provided by State municipal law, including without limitation, those provided in Title I, Chapter 1, Section 4 of the Milpitas Municipal Code, the City may revoke or suspend any permit issued to an applicant, owner or any other party who violates this Chapter, as set forth in Section XII-I-10.00. The City's right to take action pursuant to this section shall exist in addition to, and independent of, any other rights and remedies available to the City and shall exist notwithstanding the existence or lack thereof of any condition of approval imposed on an individual development project.

Section 10 - Enforcement

XII-1-10.00 - General

The City Manager shall enforce this Chapter, and its provisions shall be binding on all agents, successors, and assigns of an applicant. The City Manager may suspend or revoke any building permit or approval upon finding a violation of any provision of this Chapter. No land use approval, building permit, or certificate of occupancy shall be issued for any development unless in compliance with this Chapter or unless expressly exempted by action of the City Council. Not in limitation of any other authorization, right or remedy, the City may institute any appropriate legal actions or proceedings

necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.

XII-1-10.01 - Excessive rents/legal action

If the City Manager determines that rents in excess of those allowed by operation of this Chapter have been charged to a tenant residing in an affordable unit, the City may take appropriate legal action to recover, and the project owner shall be obligated to pay to the tenant, or to the City in the event the tenant cannot be located, any excess rents charged.

SECTION 3. CEQA- EXEMPTION. The City Council finds and determines the adoption of this Ordinance is (1) not a Project under the California Environmental Quality Act (CEQA) and is therefore exempt, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(4)4), that adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (2) statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing; (3) not intended to apply to specifically identified affordable housing projects and as such it is speculative to evaluate any such future project now and, moreover, they will be subject to appropriate environmental review at such time as approvals for those affordable housing project are considered; and/or (4) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment or payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 5. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

SECTION 6. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety and/or welfare of the citizens of Milpitas and is enacted pursuant to the California Constitution, the City's General Plan, specific plan and other land use plans, policies and ordinances.

SECTION 7. The City Council hereby authorizes the City Manager or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes throughout the City Municipal Code, prior to formal publication of this Ordinance in the Milpitas Municipal Code.

SECTION 8. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Approve and Authorize the City Manager to Execute a New 3-Year Agreement with CDW-G for Office 365 Cloud Products Through a Cooperative Subscription Contract with the County of Riverside California**
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	2/1/2022
Staff Contact:	**Daniel Nam, Information Technology Director, 408-586-2712, Chris Schroeder, Purchasing Agent, 408-586-3161**
Recommendation:	Approve and authorize the City Manager to execute a new 3-year agreement with CDW-G for Office 365 Cloud products in the amount of $147,757 annually and authorize 10% contingency in the amount of $14,776 for unforeseen licensing needs, for the total amount not-to-exceed $162,533 annually, for a total contract amount of $487,599.

Background:

On January 25, 2019, Council approved the purchase of a Microsoft Office 365 subscription to modernize the City's existing email system and to allow reliable and efficient communication within the organization and with the public. The 3-year agreement was with an approved Microsoft reseller through an existing County of Riverside California contract, in the amount of $277,620. In April 2020, the contract was amended to include $32,285 in funding for additional licenses to accommodate organizational growth, for a total contract amount of $309,905.

Office 365 includes a suite of industry standard Office software such as Word, Excel, PowerPoint, and secure cloud services including the City's email, online collaboration and virtual meeting capabilities that are essential to City operations and delivery of services to the community. The subscription also offered additional benefits such as access to automatic updates to the latest versions of Office applications. As the City continues to successfully navigate through the challenges of the COVID-19 pandemic, this suite of products has proven to be essential for business continuity as it enables critical communication and collaboration for the remote workforce. The initial 3-year contract which was with Crayon Software Experts through the County of Riverside will expire on February 28, 2022. the City needs to enter into a new contract for a Microsoft Office 365 subscription to enable uninterrupted City operations and services. Staff proposes entering a new subscription contract with CDW-G also through the County of Riverside.

Analysis:

The City invested efforts into the migration of several data and communication services in 2019. As the pandemic required the increased teleworking and hybrid work environment in 2020, the timely implementation of the cloud services enabled continued collaboration and allowed the IT staff to meet the ongoing needs of the City's operation. As the IT department recognized the increased security measures required to utilizing additional cloud services, in 2021, the staff started implementing security features such as multi-factor authentication.

Since the initial implementation, IT staff identified additional products that will further enhance efficiency and modernize the City's primary communication system. The following are additional capabilities that are added to the scope of the new subscription contract.

- Audio Conferencing – Allows meeting attendees to use traditional phones to dial in. This allows in-field staff with unstable internet connectivity, and staff without smartphones to join a meeting by dialing a phone number.

- 'Intune' Mobile Device Management (MDM) – MDM system allows centralized management of the growing number of the City's mobile devices. This includes central deployment of software, app license management, and remote configuration of security features. MDM is also a requirement for deploying mobile devices for law enforcement purposes, based on the California Department of Justice Criminal Justice Information Services Security Policy, Section 5.13.2.

- Azure AD Premium – This is an advanced set of tools that will help IT Staff to better manage the interface between Microsoft cloud servers and the City's systems. This feature will greatly impact the management efficiency for essential tasks such as remote management of Multi-factor Authentication (MFA).

Similar to the terms of the previous subscription contract, the new County of Riverside subscription contract will include the following:

- Pricing will be locked in place over the three-year contractual period.
- 24 x 7 technical support will be available to the IT staff.
- Authorized City staff member can download Office applications for personal use at home for up to 5 computers, 5 smartphones, and 5 tablets at no cost to the City.
- eDiscovery feature will expedite public records requests, resulting in efficiency and staff time savings.
- Secure cloud data storage for individual employee which can be accessed from any device with an Internet connection.
- Improved management of archival of the data.
- Improved disaster recovery.

The City of Milpitas Municipal Code Chapter 2 Purchasing, I-2-3.05 Public Agency Purchases states: (d) The Purchasing Agent may purchase supplies and services without complying with the quotation or bidding requirements of this Chapter, if such purchases are based on an agreement or entered into by any public agency or cooperative purchasing program utilizing public agency procurements as the basis for contracts offered, regardless of whether the City is a named party to the agreement or an actual participant in such a program, provided that:

i. The underlying purchase was made using competitive negotiation or procurement procedures, and may include a nationally bid cooperative contract; and
ii. The public agency is a "public agency" as defined in Government Code section 6500

The County of Riverside meets both requirements. On August 26, 2019 the County of Riverside released RFQ #RIVCO-2020-RFQ-0000048 "Microsoft Enterprise Agreement". The award of the RFQ was made to multiple vendors including contract PSA-0001522 to CDW-G. The new County of Riverside subscription contract runs from November 1, 2019 through October 31, 2024. The contract is a cooperative and is in use by agencies throughout California including the State of California. In past experience with CDW-G they have offered the City the very competitive pricing and excellent customer service.

The County of Riverside subscription contract allows public agencies in State of California to take advantage of the discounted and locked-in rates that the County of Riverside has negotiated through an approved Microsoft reseller.

Over the course of the contract term, there may be unanticipated minor licensing needs, and the needs to evaluate additional features that may be beneficial to the City. The 10% contingency will allow the staff to continue to provide uninterrupted services as the on-going needs increase.

Policy Alternatives:

Alternative 1: Do not approve the new Office 365 subscription contract with CDW-G

Pros: None
Cons: The City staff will lose the communication and collaboration tools critical for the City's operation, and Police Department will not be able to deploy mobile devices to the officers that will access Criminal Justice Information (CJI) as required.

Reason not recommended: The City staff will lose the ability to communicate via email, collaborate through Microsoft Teams, centrally manage mobile devices and use Microsoft Office suite, which includes document, presentations, and spreadsheet creation software.

Fiscal Impact:
The current IT Operating Budget includes $120,000 per year for this service. The funding required for the renewal is $162,533 per year, increasing the per year cost by $42,533. FY22 IT Operating budget will cover the additional cost until the future costs is incorporated into the FY23 budget.

California Environmental Quality Act:
By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:
Approve and authorize the City Manager to execute a new Office 365 subscription contract with CDW-G for G3, Audio Conferencing, Mobile Device Management, and other miscellaneous products for the not-to-exceed amount of $162,533 per year, and total 3-year contract amount of $487,599.

Attachments:
CDW-G Quote

CDW Government, LLC
Microsoft Enterprise 6.6 Agreement Pricing

Enterprise Quote for

City of Milpitas

Date 1/14/22
Account Manager Sean McInerney

VSL Specialist Brent Cameron
Channel Price Sheet Month Jan.

Unless otherwise noted, All Quotes expire upon current month's end

EA Renewal Quote

Customer to make three annual payments to CDW•G

				Year 1			Year 2			Year 3	
Microsoft Part #	**Description**	**Level**	**Quantity**	**Price**	**Extended**		**Price**	**Extended**		**Price**	**Extended**
AAA-11894	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr	D	575	$213.84	$ 122,958.00		$ 213.84	$ 122,958.00		$ 213.84	$ 122,958.00
LK3-00001	Audio Conferencing GCC Sub Per User	D	100	$42.24	$ 4,224.00		$ 42.24	$ 4,224.00		$ 42.24	$ 4,224.00
3QA-00008	Intune GCC Sub AP Per User	D	300	$68.40	$ 20,520.00		$ 68.40	$ 20,520.00		$ 68.40	$ 20,520.00
MQM-00001	AzureActiveDrctryPremP1GCC ShrdSvr ALNG SubsVL MVL	D	1	$54.55	$ 54.55		$ 54.55	$ 54.55		$ 54.55	$ 54.55

Year 1 Total $ 147,756.55 **Year 2 Total $ 147,756.55** **Year 3 Total $ 147,756.55**

Three Year Total $ 443,269.65

Notes

No Tax Referenced
Riverside Contract: PSA-0001522

Terms & Conditions

Terms and Conditions of sales and services projects are governed by the terms at:

http://www.cdwg.com/content/terms-conditions/product-sales.aspx

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Consider the Recommendations from Mayor Tran for the Appointments to City Commissions**
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	2/1/2022
Staff Contact:	**Mayor Tran, 408- 586-3029**
Recommendation:	Receive Mayor Tran's recommendations and approve the appointments to the City Commissions.

Background:
The City of Milpitas has 13 Commissions (including Measure F Oversight Committee), with the members appointed by the Mayor and confirmed by the City Council, that advise the Milpitas elected officials on a variety of community interest and policy areas. Mayor Tran is making the following recommendation for Commission.

Science, Technology & Innovation Commission

1. Appoint Pulak Mehta to serve as an Alternate #2 with a short-term to expire January 2023.

Planning Commission

1. Appoint Zeya Mohsin to serve as a Commissioner with a term to expire in December 2024.

Analysis:
Any resident interested in serving on a City Commission must complete a Commission Application and submit the form to the City Clerk. Copies of the applications are provided to the Mayor for his consideration. Per Government Code 40605, in a general law city where the office of Mayor is an elective office, the Mayor with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute.

Current Commissioners may seek to be re-appointed upon the expiration of their current term. Re-appointment to a new term is not automatic. Those commissioners seeking reappointment shall contact the Mayor to express their request. Re-appointment must be recommended by the Mayor and confirmed by the City Council.

All recommended Commissioner appointments have been reviewed and confirmed by the City Clerk's office.

Fiscal Impact:
There is no fiscal impact associated with this item.

Recommendation:
Receive Mayor Tran's recommendations and approve the appointments to the City Commissions.

Attachments:
1. Applications

COMMISSION/COMMITTEE APPLYING FOR:	Science, Technology and Innovation Commission
Name	Pulak Mehta
Address Type	Residence
Address	[redacted]
City	Milpitas
Postal/Zip Code	95035
Mobile Number	[redacted]
E-Mail Address	
Present Employer	Nokia
Occupation	Software Engineer
College, Professional, Vocational, or other schools attended	New York University (MS), Indian Institute of Technology - Delhi (BS)
Major Subject	Computer Engineering
Degree	Masters

City Clerk's Office
OCT 01 2021
RECEIVED

List community organizations to which you belong or have belonged (additional information may be attached).

If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).

Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):
1) Strong technical background - Masters in Computer Engineering from New York University and currently software engineer at Nokia
2) Extensive Digitization Experience - Worked as a Digital Consultant for 3 years at Siemens across India, Dubai and Germany helping factories become Industry 4.0 ready

Date Sep 30, 2021

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

Pulak Mehta

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant. Once submitted, your application will be submitted to the City Clerk.

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

CITY OF MILPITAS
PLANNING COMMISSION APPLICATION

Thank you for your interest in serving on the City of Milpitas Planning Commission. The Planning Commission advises the City Council on matters related to land use, development, and planning permit decisions. Milpitas Municipal Code requires a Planning Commissioner to be a resident of the City of Milpitas and a registered voter. Planning Commissioners typically serve three-year terms and may serve up to three consecutive terms.

This Application is intended to provide basic information about your background and experience in relation to the work of the Planning Commission. City staff and members of the City Council will review this information and make recommendations to the Mayor for possible appointment to the Planning Commission. In addition to this Application form, applicants are required to complete the attached Supplemental Questionnaire.

PLEASE PROVIDE COMPLETE INFORMATION (in black ink)

☐ **Mr.** ☐ **Mrs./Ms.** **Milpitas Resident? ___X_____** **Registered voter? _____**

Personal Information:

Zeya Mohsin
Name: First Middle Last

[redacted] Milpitas CA 95035
Address: Number Street (apt. # if needed) Milpitas, CA 95035

[redacted] [redacted]
Phone Number(s) **E-mail Address**

Retired
Occupation **Present Employer**

Business Address **Business Phone**

Education:

College, Professional, Vocational, or other schools attended	Major Subject	Certificate or Degree?
Univ. Of Karachi	Psychology	B.A

Experience:

Briefly describe any personal experience or work in the community that you believe would be an asset to your service on the Planning Commission (additional information may be attached):

I have previously had the honor of serving our community in the capacity of a City Commissioner.

I hereby certify that all statements contained in this application are true and that I am a registered voter and a resident of the City of Milpitas. If appointed, I have enough time to devote to this responsibility and will attend the required meetings.

Zeya Mohsin Jan 07, 2022

Signature **Date**

Note: All Commission Applications are Public Record. Applications will be kept on file by the City Clerk for one year.

ZMOHSIN - PLANNING COMMISSION APPLICATION SUPPLEMENTAL QUESTIONNAIRE

Name: Zeya Mohsinn
Address: [redacted], Milpitas CA
Contact: [redacted]

1. Why are you interested in serving on the Planning Commission?
I am interested in serving on the Planning Commission to help contribute towards developing city that betters our community and serves our residents. Having previously served, I understand the value of this responsibility and how it directly effects the residents of our city.

2. What do you think are important skills or attributes for a Planning Commissioner, and why?
To prepare for meetings, I will read through the materials provided, prepare questions, research grey areas, and connect with those who may have additional information needed for me to make the correct decision.

3. How will your personal or work experience contribute to your role as a Planning Commissioner?
A Commissioner should be knowledgeable on what other cities have done successfully and where they struggled on various programs. Additionally, a good Commissioner is one that puts the community first and keeps that in mind with every decision.

4. From your viewpoint, what are the most pressing land use or development issues in Milpitas?
The most pressing land use and development issue is the balancing new business and developing new homes. New business is a strong revenue stream while new homes help families establish roots in our community.

5. How would you typically prepare for a Planning Commission meeting?
I would read through the materials provided, meet with the city manager for more information, and research the critical issues to be prepared for a robust discussion.

6. What do you see as the different roles of City staff, the Planning Commission, and City Council?
These three distinct roles all have different responsibilities but need to work in collaboration to be successful. I see the city staff tasked with studying the surrounding areas, documenting best practices, and educating the planning commission to be able to make an informed decision. The City Council makes the rules and develops compliance for the developers and new business, such as guidelines on city development, address safety concerns, or compliance by developers but need to collaborate with planning commission who have the task of how the city will develop.

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Receive report from Homelessness Task Force
Category:	Community Development
Meeting Date:	2/1/2022
Staff Contact:	Sharon Goei, Building Safety and Housing Director, 408-586-3260 Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275
Recommendation:	Receive report from Homelessness Task Force.

Background:

At the December 15, 2020 City Council meeting, at the request of the Mayor, Council directed staff to place an item on the January 5, 2021 Council meeting agenda related to creating a Homelessness Task Force. At the January 5, 2021 City Council meeting, Council approved the establishment of a new ad hoc Homelessness Task Force. The task force would be comprised of up to ten resident members. Its purpose is to expand resident participation in addressing homelessness issues within the City and provide solutions, feedback, and input that will contribute to improving the quality of life of the Milpitas community, neighborhoods, and residents.

Ten members were appointed to the task force by the Mayor with input from the Council. Appointed to the task force were the following members: William Lam, Sanae Alexander, Jeremy Bevington, Ferdie Centeno, Ricky Davis, Martha Lamdin, Norma Morales, Lisa Moreno, Barbara Jo Navarro, and Tingna Xu. The following three members subsequently resigned from the task force: Ricky Davis, Martha Lamdin, and Lisa Moreno.

Ten monthly meetings have been held by the task force from March 2021 through January 2022, with the exception of July 2021. Staff has been serving in a facilitator role to coordinate meetings, assist task force members during discussions, and provide updates related to unhoused services. The analysis section below summarizes the task force discussions during those meetings.

Analysis:

The first task force meeting was held on March 10, 2021. The task force voted to select William Lam as the Chair and Sanae Alexander as the Vice Chair. Overall, the first meeting provided an opportunity for members to introduce themselves to the community, discuss the role of the task force, and begin initial logistical discussions as to how to best maximize their use of time and resources.

Subsequent meetings in April and May 2021 allowed staff to provide the task force with information about compliance with the Brown Act and the City's Open Government Ordinance. The task force discussed member availability and decided to meet on a monthly basis. During April and May, staff provided information and resources on homelessness, including the City's programs on homeless response and prevention. Additionally, staff invited the Santa Clara County Office of Supportive Housing to give a presentation on the 2020-2025 Santa Clara County Community Plan to End Homelessness. County representatives also shared information regarding their Homeless Engagement and Access Team for homeless outreach and assessment. Through these initial meetings and information gathering sessions, the task force began to explore possible areas of focus. Examples of the ideas and areas the task force desired to explore are listed below:

- Housing (both permanent affordable housing and temporary housing/shelters)
- Food and clothing

- Education and job training
- Substance abuse rehabilitation services
- Homelessness prevention
- Helping people access benefits and resources
- Community safety
- Litter and pollution
- At-risk youth and McKinney-Vento students
- Multi-lingual social/emotional services for individuals experiencing homelessness

Task force members also discussed goals and objectives for the Homelessness Task Force:

- Help the unhoused move into housing for the homeless
- Provide resources, support, restore dignity and plan for prevention through our unhoused services
- Find cost effective solutions for the unhoused to create a safer community
- Provide input/feedback on the challenges faced by families and students and find a sustainable and innovative solution to help the unhoused and McKinney-Vento students in Milpitas

From June through September 2021, the task force synthesized their ideas into program areas that would then become the basis of the Homelessness Task Force's plan. The plan created program areas of outreach and community communication, temporary housing, prevention program, work program, and accountability and community safety.

The task force assigned members to program areas in June. In August and September, task force members explored their program ideas, conducted research, presented on program topics, and gave one another feedback. The task force was asked to identify resources that would be required for each program idea. Members noted that resources, including funding and personnel, would need to be determined depending on program direction. The task force also discussed the format of the task force report presentation to the City Council.

From October 2021 through January 2022, the task force held robust discussions on their program areas and report presentation slides to the City Council. Task force members reviewed and edited slides, providing further input on program areas in each meeting. The task force approved the slide presentation and selected task force members to deliver the presentation to the City Council. The task force outlined their presentation into the following main program areas:

- Milpitas Homelessness Help Center
- Temporary Housing Programs
- Homelessness Prevention Programs
- Work and Self-Sufficiency Programs
- Accountability

Please refer to Attachment 1 for the presentation of the Homelessness Task Force report that delineates the program areas in detail.

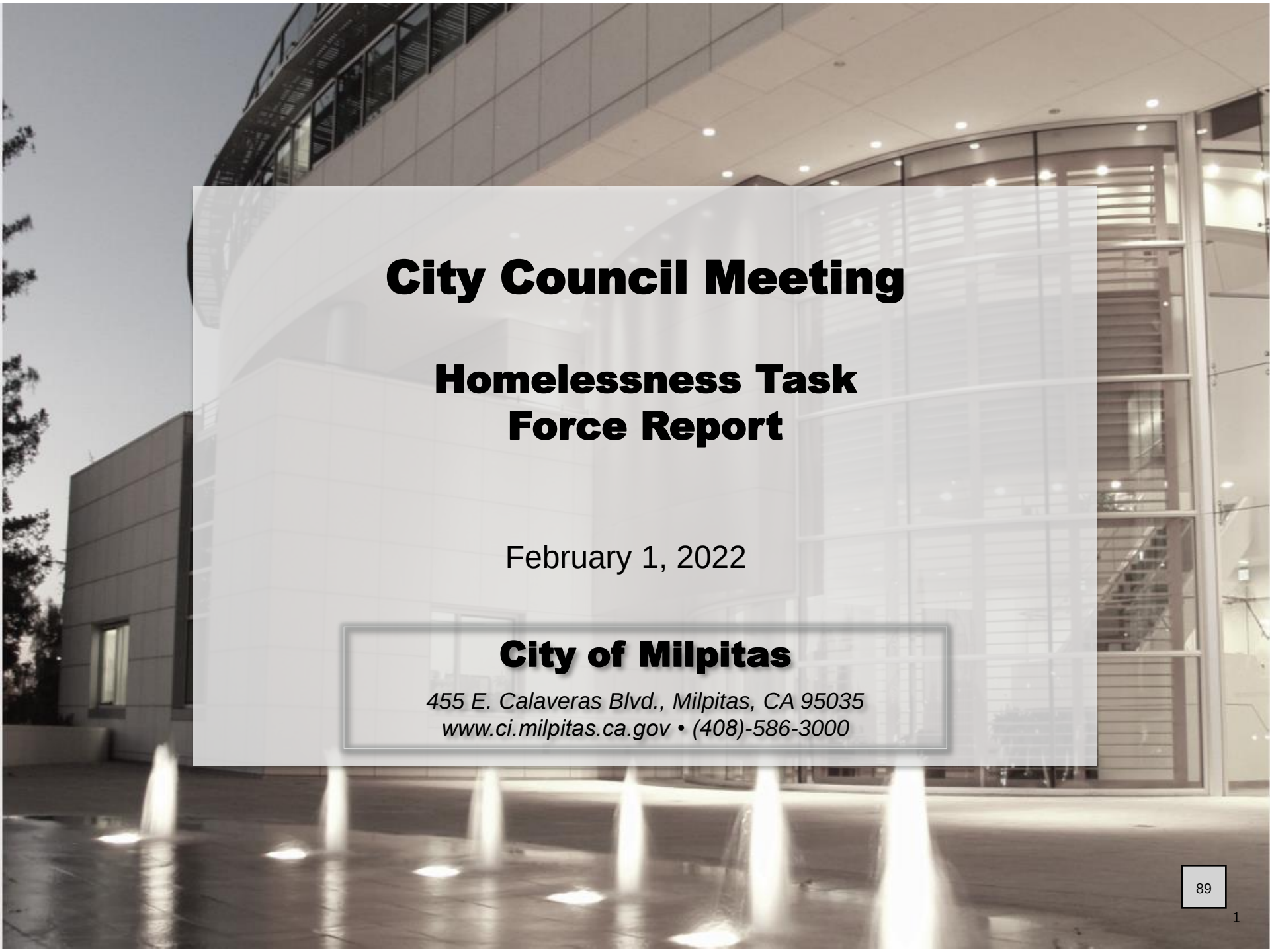
At the February 1, 2022 City Council meeting, the Homelessness Task Force will provide its report and presentation to the City Council.

Fiscal Impact:
There is no fiscal impact to receive a report from the Homelessness Task Force. However, depending on Council feedback on the report, there may be future fiscal impact in terms of funding or personnel cost to conduct research or implementation. It is important to note that the current low staffing capacity has necessitated focus on work plan items associated with federal or state requirements. Additional staffing resources will be required to conduct any further research or implementation related to the Homelessness Task Force.

California Environmental Quality Act:
The action being considered, the mere acceptance of a report, has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). If the City Council is inclined to explore any of the recommendations made in the report, staff will conduct a CEQA analysis, or verify the applicability of a CEQA exemption, prior to any discretionary action to approve or move forward with any recommendation.

Recommendation:
Receive report from Homelessness Task Force.

Attachment:
1. Presentation of Homelessness Task Force Report



City Council Meeting

Homelessness Task Force Report

February 1, 2022

City of Milpitas

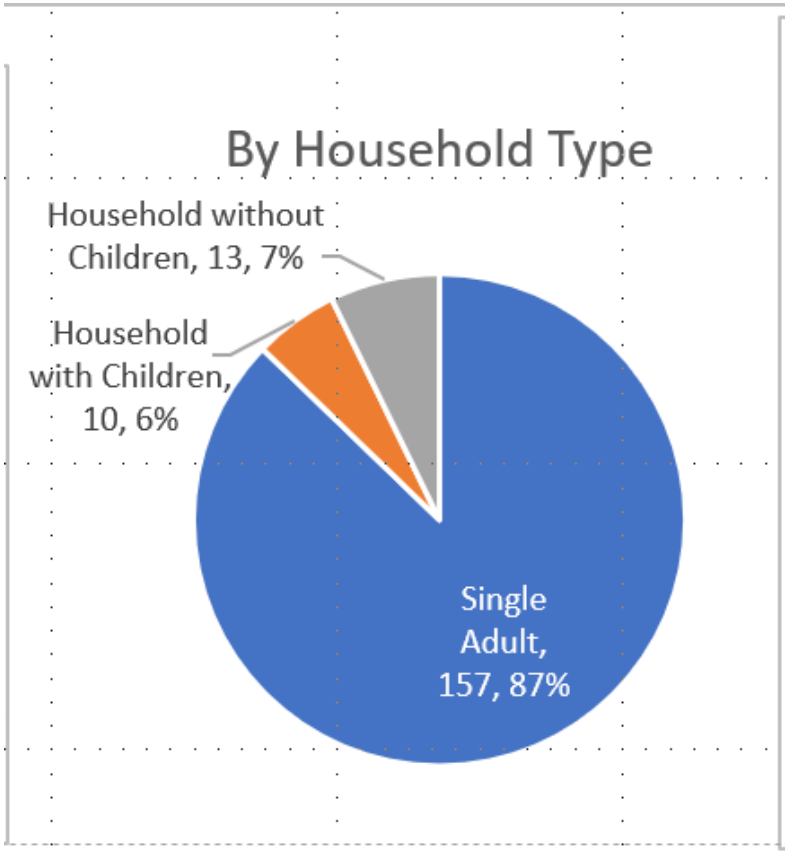
455 E. Calaveras Blvd., Milpitas, CA 95035
www.ci.milpitas.ca.gov • (408)-586-3000

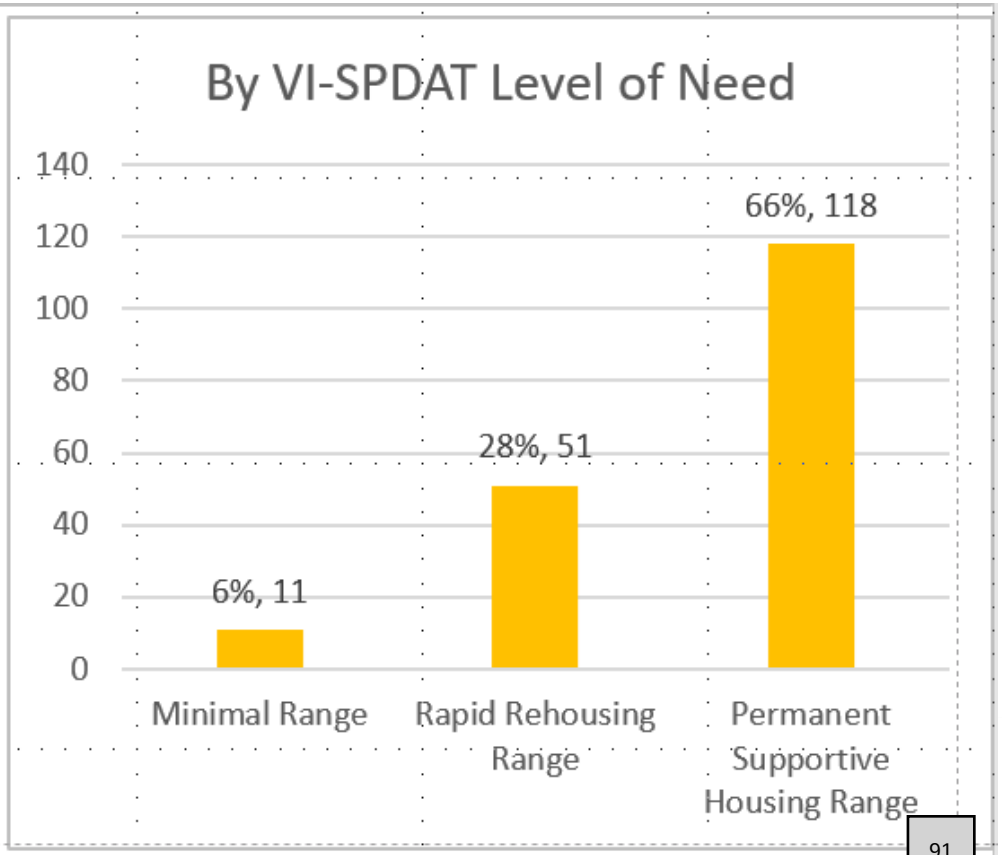
Presentation Outline

- Homelessness in Milpitas
- Task Force Overview, Goals, Members
- Task Force Program Ideas
- Receive Report from Task Force

Milpitas Affiliated Households Waiting for Housing

- 6,298 households in the Community Queue (Countywide)
  - 180 households are “affiliated” with Milpitas
    - 169 households scored in the RRH or PSH range





Source: Santa Clara County Office of Supportive Housing (August 2021)

Homelessness Task Force Overview

- On January 5, 2021, the City Council, upon the request of Mayor Tran, approved the establishment of a new Ad Hoc Homelessness Task Force with up to ten community members.
- The purpose of the Task Force is to expand resident participation and provide solutions, feedback, and input that will contribute to improving the quality of life of the Milpitas community, neighborhoods, and residents.
- Monthly meetings except July
- Staff facilitates meetings and provides updates on programs

Homelessness Task Force Overview

- **March**: Welcome, introductions, selection of Chair and Vice Chair, role of the task force, logistics
- **April**: Brown Act training, possible areas of focus, staff shared resources on homelessness
- **May**: Presentation by County Office of Supportive Housing, task force goals and objectives
- **June-Sept**: Explore programs focused on outreach and community communication, temporary housing, homelessness prevention, work and self-sufficiency program, accountability and community safety
- **Oct-Jan**: Review, edit, and approve slides to be presented to City Council, and select Task Force representatives to deliver the presentation

Homelessness Task Force Goals

- Help the unhoused move into housing for the homeless
- Provide resources, support, restore dignity and plan for prevention through our unhoused services
- Find cost effective solutions for the unhoused to create a safer community
- Provide input/feedback on the challenges faced by families and students and find a sustainable and innovative solution to help the unhoused and McKinney-Vento students in Milpitas

Homelessness Task Force Members

Chair William Lam

Vice Chair Sanae Alexander

Jeremy Bevington

Ferdie Centeno

Ricky Davis

Martha Lamdin

Norma Morales

Lisa Moreno

Barbara Jo Navarro

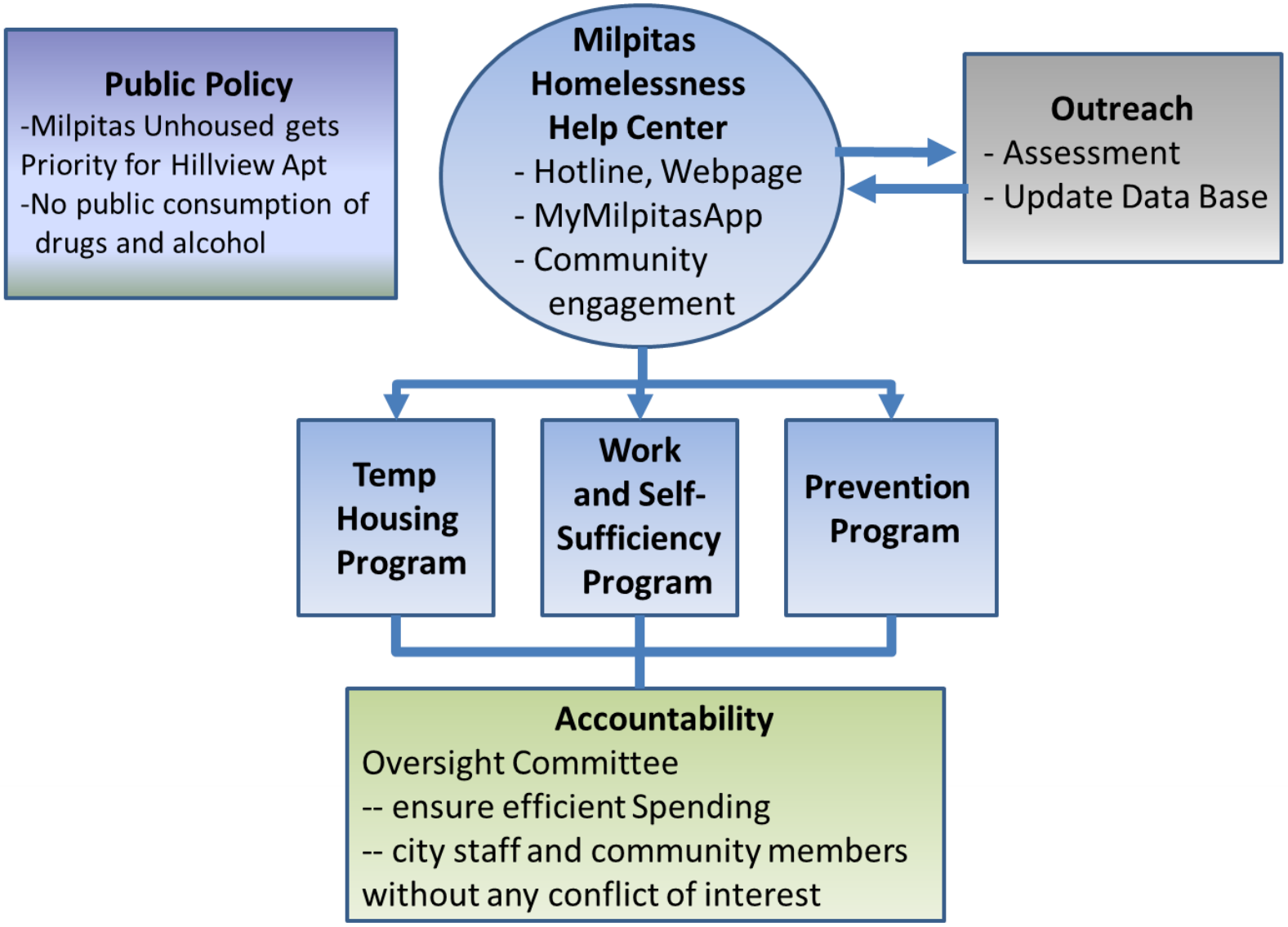
Tingna Xu

Members that resigned from Task Force:
Martha Lamdin, Lisa Moreno, and Ricky Davis

Homelessness Task Force Report

- Plan Overview (Chair Lam)
- Program Ideas:
  - Milpitas Homelessness Help Center (Chair Lam)
  - Temporary Housing (Vice Chair Alexander)
  - Homelessness Prevention (Vice Chair Alexander)
  - Work and Self-sufficiency (Chair Lam)
  - Accountability (Chair Lam)

Milpitas Homelessness Task Force Plan Overview



Milpitas Homelessness Help Center

- Purpose: increase public information on homelessness resources, programs, and concerns
- Staff person at City Hall who can respond to questions and receive community feedback with language accommodation (e-mail, hotline, or walk-in)
- Webpage with local and county resources, oversight committee schedule
- Create a new category on the MyMilpitas App to facilitate outreach to the unhoused
- Community involvement and awareness of programs
- Example: Resource fairs and pop-up events

Temporary Housing Programs

- **City-sanctioned encampment or safe parking areas**
  - Purpose: Transition to permanent housing. Assistance with self-reliance, self-esteem, pride, dignity, etc.
  - Safer, more stable alternative to encampments; transitional
  - RVs and tents with showers, toilets, laundry, running water, garbage pick-up and food service
  - Assessment and case management
  - Example: City of Fremont, Mountain View, Union City

Temporary Housing Programs

- **Temporary shelter and resource center ~~with~~ giving priority to families, seniors, working individuals, and youth aging out of foster care system (17.5 to 22 years of age)**
  - Purpose: Transition to permanent housing. To build independence, quality of life, self-reliance, hope
  - Create a new congregate shelter with beds, food, daycare, employment resources, financial coaching and more
  - Possibly use an abandoned church building or vacant warehouse
  - Assessment and case management
  - Public-private sector collaboration
  - Example: St. Mary's Center in Oakland

Temporary Housing Programs

- **“Tiny home” transitional housing**
  - Purpose: Transition to permanent housing. Assistance with self-reliance, self-esteem, pride, dignity, etc.
  - Faster to construct and much lower cost than permanent housing (shipping containers can be prefabricated, are movable and scalable)
  - Non-congregate housing allows for more privacy and security
  - On-site services, assessment, case management, amenities
  - Explore subsidy for homeowners who host unhoused in Accessory Dwelling Units
  - Explore funding for homeowners or organizations to build tiny homes on their property
  - Example: City of Los Angeles, Oakland, Seattle’s “The BLOCK Project”

Prevention Programs

- **Connect with McKinney-Vento households; expand childcare**
  - Purpose: Identify and assist at-risk residents, youth, and MUSD McKinney-Vento households and increase child-care options
  - More robust outreach to McKinney-Vento households
  - More connections to services and organizations like LifeMoves
  - More outreach in various languages
  - Expand day care options so parents can go back to work and avoid falling into homelessness
  - Example: After the Bell and YMCA after school programs

Work and Self-Sufficiency Programs

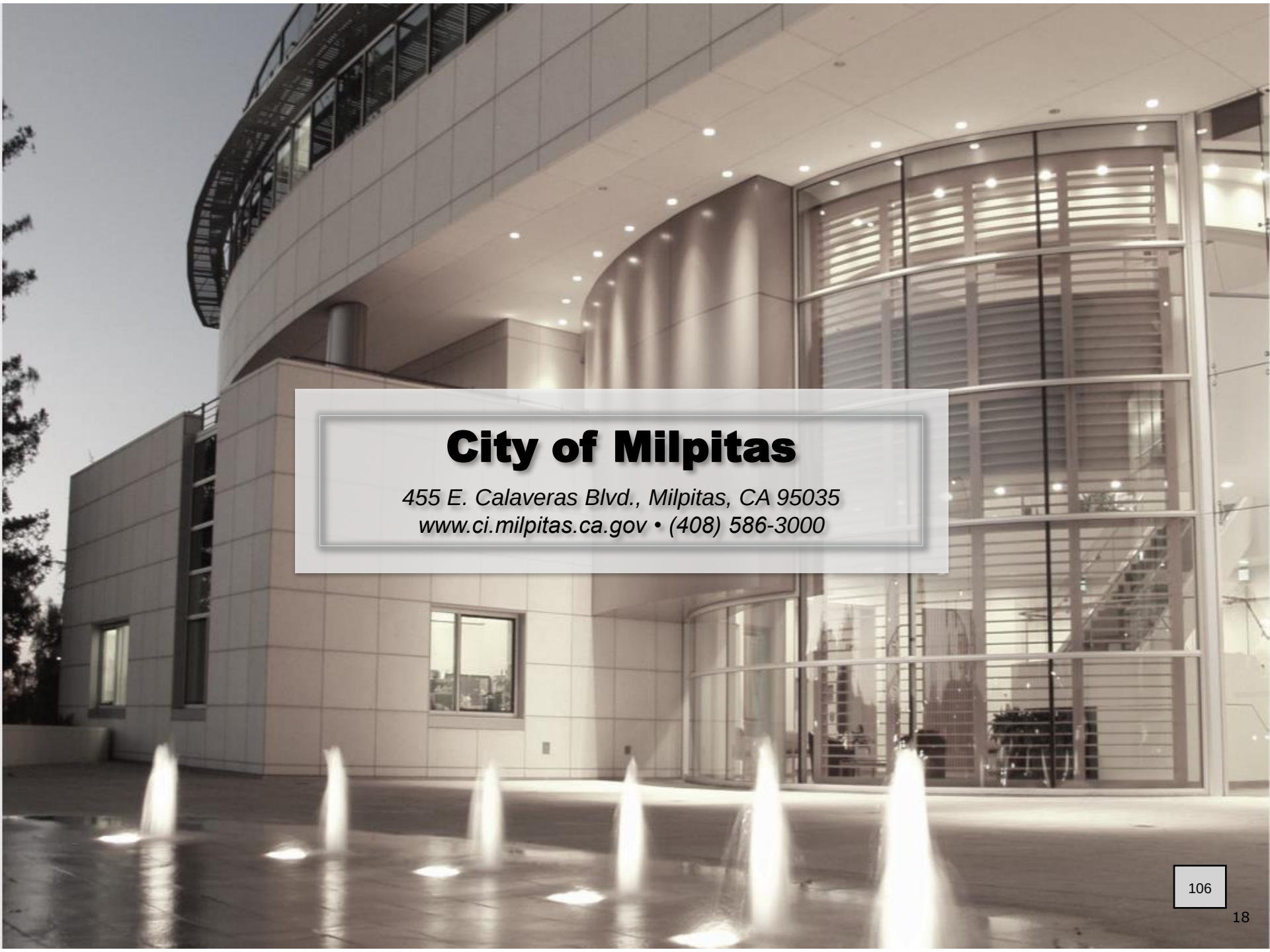
- **Rewards for litter pick-up and job training**
  - Purpose: Create a work program to help with self-reliance, self-esteem, pride, dignity and to beautify the City.
  - Stage 1: Provide gift cards or food vouchers to unhoused residents who clean their own encampments, parks, freeway entrances, and other key areas
  - Stage 2: Motivated candidates are referred to SCC work program to train for professional skills
  - Reach out to neighborhoods, corporations, local organizations to volunteer and support the program
  - Refer workers to programs through NovaWorks, Goodwill, Downtown Streets Team and more
  - Example: City of Elk Grove

Accountability

- **Local Oversight Committee**
  - Purpose: Ensure tax dollars are spent efficiently on unhoused programs
  - Create a 7-9 member committee to oversee City spending on homelessness
  - Committee approval for all expenditures
  - Review 911 calls and crime reports related to unhoused residents

Recommendation

- Receive report from Homelessness Task Force



City of Milpitas

455 E. Calaveras Blvd., Milpitas, CA 95035
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CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Conduct a Public Oversight Meeting pursuant to California Senate Bill 35 (SB 35) for a proposed 112-unit residential development (100% affordable) up to five stories in height located at 1300 South Main Street (APN 083-36-002) within the Transit Area Specific Plan planning area. The meeting is for design review and public oversight on objective and focused design standards criteria required for this project, as published and adopted by ordinance or resolution by the City before submission of a development application, and that are broadly applicable to development within the City. The design review and public oversight shall not in any way inhibit, chill, or preclude the ministerial approval provided by Government Code Section 65913.4.
Category:	Community Development
Meeting Date:	2/1/2022
Staff Contact:	**Ned Thomas, Planning Director, 408-586-3273**
Recommendation:	(1) Receive a presentation from staff regarding SB 35 and the criteria for streamlined review of qualifying projects; (2) Receive a presentation from the applicant of the proposed development; (3) receive public comment; (4) Assess compliance with the criteria for streamlined review as well as any City-adopted objective design standards in accordance with Government Code Section 65913.4.

Background:

California Senate Bill 35 (SB 35) is a statute that streamlines the development review process for affordable housing projects in local jurisdictions that have not made adequate progress toward meeting their Very Low- and Low- income Regional Housing Needs Allocations (RHNA) as determined by the California Department of Housing and Community Development (HCD). For those jurisdictions that have made adequate progress toward their Above Moderate income RHNA, SB 35 requires streamlining only for proposed housing projects with greater than 50% affordability. Having achieved more than double its Above Moderate income RHNA in the current housing cycle (2016-23), Milpitas is one of 213 jurisdictions across California that fall into this category.

SB 35 went into effect on January 1, 2018 and has substantially changed the development review process for multi-family housing projects that satisfy the following basic criteria:

- Provide a specified percentage of affordable housing units.
- Comply with objective design standards.
- Located within an urban area with 75% of the perimeter developed.
- Located on an existing parcel zoned or planned for residential uses.
- Not located within the coastal zone, agricultural land, wetlands, or fire hazard areas.
- Pay prevailing wages to workers.

SB 35 requires the local jurisdiction to review an application for a qualifying housing development within a certain time frame. For developments with 150 or fewer units, the city has 60 days to determine if the project qualifies for streamlined review (90 days for developments over 150 units). If the application is deemed eligible for streamlined review, the city must then review and approve the project within 90 days after application subm

On February 8, 2021, AMG & Associates, LLC. (applicant) submitted a Notice of Intent (NOI) informing the Planning Department of their intent to seek streamlined ministerial approval under SB 35 to develop two multi-family residential buildings with up to 108 below-market-rate (100% affordable) dwelling units on a 0.96-acre site located at 1300 South Main Street. Once the City received the NOI, Planning staff engaged with California Native American Tribes that are traditionally and culturally affiliated with the geographic area, as required per Government Code § 65913.4(b)(1)(A), and conducted tribal consultation for the project in accordance with the requirements of AB 168. This consultation resulted in a written agreement between the City and the Tamien Nation (representing Tamien Nation, Confederated Villages of Lisjan Tribe, and the Canyon Band of Costanoan Ohlone People)to provide monitoring and protection of potential tribal cultural resources found on the site during development of the proposed project. [See Attachment 2]. The Agreement was finalized on November 23, 2021, after the developer, AMG & Associates, LLC, accepted the terms of the Agreement, including five Conditions of Approval detailing the methods, measures, and conditions for the treatment of any tribal cultural resource found on the site.

On November 23, 2021, the applicant submitted a formal preliminary review application (File No. P-PP21-0013) to develop two multi-family residential buildings, up to 64 feet-four inches (five stories) in height, with a total of up to 112 (previously 108 in the NOI) below-market-rate dwelling units, associated site improvements, and no parking. [See Attachment 1]. The application included a memorandum stating how the proposed project qualifies for streamlined review under SB 35 status. [See Attachment 2].

The project site is located within the Transit Area Specific Plan (Milpitas Metro Plan) planning area and within one-half mile of high-quality public transit (Great Mall VTA light rail station). The General Plan land use designation for the site is MMSP Milpitas Metro Specific Plan but was VHDR Very High Density Residential at the time of application submittal. The project site is located in the R4-TOD Multi-family Very High-Density Residential Zoning District with a Transit-Oriented Development Overlay, and the City's current Housing Element identifies this site as a potential housing site.

Analysis:

Project Site

The triangular project site includes two parcels totaling 42,077 square feet (0.96 acres) located immediately southeast of the intersection of South Main Street and Great Mall Parkway. The parcels currently contain a one-story commercial building, which would be demolished to accommodate the proposed project. Commercial and residential uses surround the project site; bounded by the Ilara apartment building to the west, Union Pacific Railroad and the Turing apartment building to the east, and the future "Main Street Condos" site at 1316 South Main to the south. The parcel is fairly level throughout the site. An existing masonry wall borders the western and northern property lines. The wall connects to an existing iron fence that borders the eastern and southern property lines. A metal gate and driveway off South Main Street provide vehicular access.

Project Description

The proposed project consists of two separate buildings. Building A would include 43 residential units and a gross floor area of 51,405 square feet, and Building B would include a total of 69 units and a gross floor area of 64,015 square feet. The overall unit mix is 38 studios (34%), 14 one-bedroom units (13%), 30 two-bedroom units (26.5%) and 30 three-bedroom units (26.5%). The proposed project also features an approximately 625-square-foot outdoor play area, an 850-square-foot entrance plaza, a 1,260-square-foot leasing office, 28 long-term bicycle parking stalls, landscaping, a lot combination and associated site improvements. SB 35 prohibits the City from imposing vehicle parking standards, and the proposed project includes no vehicle parking.

Objective Design Standards

In accordance with Government Code Section 65913.4(d)(1), the City Council may conduct a public oversight meeting for the purposes of assessing compliance with criteria required for streamlined projects and objective standards.. Under SB 35, the public oversight of the development must *be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design*

standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and must be broadly applicable to development within the jurisdiction. This process may not in any way inhibit, chill, or preclude the ministerial approval provided by SB 35 or its effect. Therefore, the Council's role in this process will be limited and the meeting will be focused on staff detailing compliance with the identified objective criteria, allowing for public testimony, and generally limited to the public and Council understanding and assessing compliance of the project for SB 35 streamlined permit processing. In other words, the City Council will have no discretion here and so long as the project meets the relevant criteria, state law mandates approval notwithstanding any contrary opinions of the City Council or the public.
HCD defines the term "Objective Design Standard" as follows:

> *"Objective zoning standard," "objective subdivision standard," and "objective design review standard" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official prior to submittal, and includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.*

The Transit Area Specific Plan (TASP) adopted by the City of Milpitas on June 17, 2008, includes objective design standards focused on achieving higher-density, transit-oriented residential development on parcels planned and zoned for this purpose. As noted above, the project site at 1300 South Main Street is located in the TASP Area and is subject to all applicable objective design standards. Table 1 below demonstrates project compliance with those standards.

Table 1: TASP Objective Design Standards

Development Standard	Required	Proposed	Complies?
Density (Objective Zoning Standard)	41 - 60 dwelling units/acre (base density under General Plan) 74 – 108 dwelling units/acre (with 80% density bonus allowed for 100% affordable projects under the State Density Bonus Law No maximum density for projects that comply with the State Density Bonus Law and is located within ½-mile of transit. (See Government Code § 65913.4(e)(1)(A))	117 dwelling units/acre	Yes, because the project complies with State Density Bonus Law and is located within ½-mile of the VTA Great Mall light rail station
Building Height, maximum	75 feet	64 feet, 8 inches	Yes
Front Yard Setback (using "Other Street Facing" Setback Standard)	12- 20 feet from back of sidewalk	7 feet, 11 inches	No, but qualifies for concession under State Density Bonus Law

Development Standard	Required	Proposed	Complies?
Side Yard Setback	15 feet, 20' over three stories when abutting residential	7 feet, 6 inches	No, but qualifies for concession under State Density Bonus Law
Rear Yard Setback	15', 20' over three stories when abutting residential	6 feet, 1 inch	No, but qualifies for concession under State Density Bonus Law
Projections into Required Yards	Porches, stairs, balconies, bay windows, and awnings may project up to six feet into required setbacks.	Project includes no projections into required yards	Yes
Building Orientation and Entrances	Buildings must face the street; and primary building entrances must be oriented toward the street.	Buildings generally face S. Main Street	Yes
Setbacks Adjacent to Creeks and Drainage Channels	Minimum 25 feet from the top of bank or maintenance road if one exists	The rear property line is more than 75 feet away from the top bank of the creek	Yes
Park and Open Space Requirements	3.5 acres of parkland for 1,000 residents. See calculation below: 279 residents x 152.46 square feet of parkland space per person = 0.98 acres The percentage of TASP impact fees dedicated to parkland covers the equivalent of 0.87 acres Remaining Park and Open Space needed = 0.11 acres	Developer providing 0.18 acres of park and open space, including: 6,985 square feet (0.16 ac) of ground-level common open space 1,140 square feet (0.02 ac) indoor amenity areas	Yes

Development Standard	Required	Proposed	Complies?
Residential Open Space	A minimum of 25% of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play, or outdoor living areas. 25% x .96 = .24 acres required	0.18 acres provided in usable open space and recreational area, including: 6,985 square feet of ground-level common open space 1,140 square feet indoor amenity areas	No, but qualifies for concessions under State Density Bonus Law
Balconies and Porches	Each dwelling unit shall be provided with private open space as follows: - Balconies and porches (above ground level): minimum 60 SF; or - Patios (at ground level): minimum one hundred square feet.	No balconies provided	No, but qualifies for waivers under State Density Bonus Law
Off Street Parking, minimum	Total Parking per TASP: Studios (38) = 30 spaces One-Bedroom (14) = 17 spaces Two-Bedroom (30) = 48 spaces Three-Bedroom (30) = 48 spaces Guest Spaces = 29 spaces **Total = 172 vehicle spaces**	0 spaces	Yes. SB35 prohibits the City from imposing any parking standards on a 100% affordable project located within ½ -mile of high-quality transit. This project is located within ½ -mile of the VTA Great Mall light rail station.
Bicycle Parking	1 space per 4 units = 28 spaces	28 spaces	No, but qualifies for waivers under Density Bonus Law

Development Standard	Required	Proposed	Complies?
	on-street guest racks: 1 space **Total = 29 bicycle spaces**		
Tree Removal	If any protected trees are proposed for removal, they must be replaced by a 2:1 ratio	Trees to be removed are off-site. Adjacent property owner approval needed.	Yes

Density Bonus

In 1979, California enacted the Density Bonus Law (Government Code §§ 65915 – 65918) to address the need for affordable housing and encourage affordable housing production. Density bonus law provides a developer a combination of benefits that cities must allow. In general, those benefits include:

- Allowing more market-rate units to be built than otherwise allowed by the applicable zoning designation (i.e., density bonus).
- Providing "incentives or concessions," such as reducing development standards, that result in actual and identifiable cost savings for the project.
- Providing "waivers or modifications" of development standards that would physically preclude the project's construction.
- Allowing reduced parking requirements.

SB 35 projects can utilize benefits under state and local density bonus laws (Government Code § 65913.4(a)(5)). When determining consistency with density requirements under SB 35, the maximum density allowed is considered consistent with objective standards and any additional density or units granted as a density bonus are considered consistent with the maximum allowable densities (see HCD Guidelines, Article III, § 300(c), (d)).

Local jurisdictions have very limited discretion with density bonuses, development standards, and parking requirements when projects incorporate below-market-rate units that meet applicable affordability requirements set by the state. In addition, the State Density Bonus Law prohibits a local jurisdiction from imposing any maximum density controls on a 100 percent affordable development project located within ½-mile of a major transit stop (see Government Code § 65915(f)(3)(D)(ii)).

When the project was submitted, the applicant referenced the General Plan designation of Multi-Family Residential, Very High Density (VHD) which permits up to 60 units/gross acre in a Transit Oriented Development Overlay District, which is where the property at 1300 South Main lies. Typically, projects that provide 100% affordable units are also allowed an 80% increase in density (108 units per acre), but since 1300 South Main is located within ½-mile from a major transit stop (VTA Great Mall light rail station), the State Density Bonus Law prohibits the City from imposing any maximum density control on the proposed project. Therefore, the proposed development density of 117 units per acre is acceptable for ministerial review under SB 35.

Concessions, Incentives, and Waivers

Per State Density Bonus Law, a "concession or incentive" is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed-use zoning; or

- Other regulatory incentives or concessions which result in identifiable and actual cost reductions to provide affordable housing

Per Density Bonus Law, the applicant is entitled to four concessions (see Government Code § 65915(d)(2)(D)). The City is required to grant a concession or incentive unless it finds the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, harm historic property, or would be contrary to law. The Density Bonus Law restricts the types of information and reports that a developer may be required to provide to the local jurisdiction to obtain the requested incentive or concession. The local jurisdiction has the burden of proof if it declines to grant a requested incentive or concession.

Attachment 3 is a "Request for Development Incentives" memorandum submitted by the applicant with justification for why the City should grant concessions for the following development standards:

- ***Concession 1 - Front Yard Setback****: This development standard is found in Section XI-10-12.06(E)(5)(d) of the Milpitas Municipal Code (MMC) and Table 5-1 (Development Standards) of the Milpitas Transit Area Specific Plan. This standard requires a setback of 12 to 20 feet, and the project proposes a front yard setback of 7 feet and 11 inches. Increasing the setback would translate to a reduction of a minimum of 39 units. Therefore, the request for relief from this requirement equates to an actual, identifiable cost reduction. If the applicant complied with this standard, units would be eliminated, translating to an increase in land cost per unit. The difference between the land cost per unit at 73 units (without the concession) and 112 units (with the concession) is $24,805 per unit. These numbers were calculated based on a land purchase price of $5,200,000. Therefore, a concession for this development standard results in an "actual and identifiable cost reduction" for constructing this affordable housing project.*

- ***Concession 2 - Side Yard Setback***: *This development standard is found in Section XI-10-12.06(E)(5)(d) of the Milpitas Municipal Code (MMC) and Table 5-1 (Development Standards) of the Milpitas Transit Area Specific Plan. This standard requires a setback of 12 to 20 feet, and the project proposes a side yard setback of 7 feet and 6 inches. Increasing the setback would translate to a reduction of at minimum 20 units. The request for relief from this requirement equates to an actual, identifiable cost reduction. If the applicant complied with this standard, units would be eliminated, translating to an increase in land cost per unit. The difference between the land cost per unit at 92 units (without the concession) and 112 units (with the concession) is $9,456 per unit. These numbers were calculated based on a land purchase price of $5,200,000. Therefore, a concession for this development standard results in an "actual and identifiable cost reduction" for constructing this affordable housing project.*

- ***Concession 3 - Rear Yard Setback****: This development standard is found in Table 5-1 (Development Standards) of the Milpitas Transit Area Specific Plan. This standard requires a rear setback of 20 feet when abutting residential, and the project proposes a side yard setback of 6 feet. Increasing the setback would translate to a reduction of at minimum 30 units. Therefore, the request for relief from this requirement equates to an actual, identifiable cost reduction. If the applicant complied with this standard, units would be eliminated, translating to an increase in land cost per unit. The difference between the land cost per unit at 82 units (without the concession) and 112 units (with the concession) is $16,987 per unit. These numbers were calculated based on a land purchase price of $5,200,000. Therefore, a concession for this development standard results in an "actual and identifiable cost reduction" for constructing this affordable housing project.*

- ***Concession 4 - Residential Open Space****: This development standard is found in Section XI-10-4.05(D)(1) of the Milpitas Municipal Code. This standard requires 25 percent of the site, or 10,519 square feet is open space, and the project proposes 8,125 square feet of common open space. Increasing the common open space would translate to a reduction of 10 units. Therefore, the request for relief from this requirement equates to an actual, identifiable cost reduction. If the applicant complied with this standard, units would be eliminated, translating to an increase in land cost per unit. The difference between the land cost per unit at 102 units (without the concession) and 112 units (with the concession) is $4,552 per*

unit. These numbers were calculated based on a land purchase price of $5,200,000. Therefore, a concession for this development standard results in an "actual and identifiable cost reduction" for constructing this affordable housing project.

Waivers

Similar to concessions and incentives, the State Density Bonus Law allows developers to request waivers. A waiver pertains to a development standard (setback, height, etc.) that would "physically preclude" construction of the project. Waivers provide the ability to waive a development standard when the standard would result in actual and identifiable cost savings for the project. The applicant can request as many waivers from development standards as needed if the development standard would preclude the density bonus project from being built at the allowed density. Furthermore, the City must grant these waivers unless they violate state or federal law, create a specific adverse impact on health and safety or the physical environment that cannot be mitigated, or adversely impact real property listed on the California Register of Historical Resources. The City identified two objective development standards that will require waivers for the project to be built at the proposed density.

- ***Private Open Space****: This development standard is found in Section XI-10-4.05(D)(1)(d) of the Milpitas Municipal Code (MMC). This standard requires each dwelling unit to be developed with private open space in the form of either a patio (at ground level) or a balcony/porch (above ground level). In addition, the development standard requires a minimum of 100 square feet of usable open space per patio or a minimum of 60 square feet of usable open space per balcony/porch.*

- ***On-Street Bicycle Parking***: *This development standard is found in Table 5-1 (Development Standards) of the Milpitas Transit Area Specific Plan. Any residential development shall provide on-street guest racks equivalent to five percent of the bicycle parking requirement.*

Government Code § 65915(e)(1) states, "*In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county.*"

As shown in Table 1 above, the proposed project does not meet the required objective standards for private open space or on-street guest bicycle parking. However, consistent with State Density Bonus Law, the applicant has requested that the City waive these two requirements and has shown that such waivers would result in actual and identifiable cost savings for the project. The requested waivers would not violate state or federal law, create a specific adverse impact on health and safety or the physical environment that cannot be mitigated, or adversely impact real property listed on the California Register of Historical Resources.

Parking Requirements

Pursuant to Government Code Section 65913.4(e)(1)(A), the City is prohibited from imposing automobile parking standards on a project deemed eligible for streamlined review under SB 35 when it is located within ½-mile of public transit. The proposed project is located within ½-mile of public transit. The proposed project is eligible for streamlined review under SB 35 and is located within ½-mile of the VTA Great Mall light rail station. Therefore, the City is prohibited from imposing any automobile parking standards on the project.

Fiscal Impact: The Project shall be subject to the following development fees:

- Transit Area Specific Plan Development Impact Fee (TADIF)
  The TADIF is currently set at $44,009 per residential unit. Based on approval for the development of 112 units, the estimated TADIF for this project is $4,929,008.

- Public Art Fee
  Private residential developments of 20 or more new dwelling units must devote at least one-half of one percent of the Building Development Cost toward the purchase and installation of public art at the

project site. Therefore, the developer has not provided an approximate cost for construction to estimate the Public Art Fee.

California Environmental Quality Act: SB 35 mandates that the project review process is ministerial and that projects are judged on objective standards that do not involve the exercise of discretion, the California Environmental Quality Act (CEQA) does not apply to the SB 35 process pursuant to CEQA Guidelines Section 15268(a): “Ministerial projects are exempt from the requirements of CEQA.”

Recommendation: (1) Receive a presentation from staff regarding SB 35 and the criteria for streamlined review of qualifying projects; (2) Receive a presentation from the applicant of the proposed development; (3) Receive public comment; (4) Assess compliance with the criteria for streamlined review as well as any City-adopted objective design standards in accordance with Government Code Section 65913.4.

Attachments:
Attachment 1 – Project Plans
Attachment 2 – AB 168 Tribal Consultation Agreement and Conditions of Approval
Attachment 3 – Request for Development Incentives, dated November 23, 2021

CITY OF MILPITAS
PLANNING DEPARTMENT

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3279, FAX: 408-586-3305
http://www.ci.milpitas.ca.gov/planningdepartment/

November 15, 2021

VIA E-MAIL ONLY
Tamien Nation
Attn: Ms. Quirina Geary
P.O. Box 8053
San José, CA 95155
email: qgeary@tamien.org

Re: AB 168 Tribal Consultation Enforceable Agreement: 1300 South Main St., Milpitas, CA

Dear Ms. Geary:

Thank you for your collaboration with the City of Milpitas on the tribal consultation required under Assembly Bill (AB) 168 for the proposed residential development project at 1300 South Main Street. The formal AB 168 consultation process between the Tamien Nation Tribe and the City of Milpitas has concluded, and attached to this letter is Exhibit A, the enforceable agreement required pursuant to California Government Code §65913.4(b)(2)(B).

The City of Milpitas initiated this consultation via letter emailed to the Tamien Nation on May 6, 2021, to which you responded on May 7, 2021. The City received similar responses from the Confederated Villages of Lisjan Tribe and the Canyon Band of Costanoan Ohlone People, and on October 14, 2021, you informed me by email that the three Tribes had met and determined to defer to Tamien Nation on this project. We subsequently met with the City's consultant, Kerrie Collison from LSA, on October 18, 2021, and prepared draft mitigation language to provide for proper monitoring and protection of potential tribal cultural resources discovered at the project site. After some additional email correspondence with you and the development proponent, AMG & Associates, LLC, to modify the draft mitigation language, all parties met via Zoom on November 8, 2021, to finalize the agreement.

Pursuant to California Government Code section 65913.4(b)(2), subsection (B), the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is made between both parties on methods, measures, and conditions for tribal cultural resource treatment. Based on this agreement, the project proponent may submit an application for a development subject to the streamlined, ministerial approval process described in the agreement.

Thank you again for your collaboration with the City if Milpitas on this project. We value your assistance and look forward to consulting with you on future projects involving religious and cultural significance

to your Tribe. If you have any further questions, please contact the Planning Project Manager for this project: Senior Planner Michael Fossati at mfossati@ci.milpitas.ca.gov.

Sincerely,

Ned Thomas, AICP
Planning Director
City of Milpitas

cc: AMG & Associates, LLC
Chris Diaz, Milpitas City Attorney

EXHIBIT A

AB 168 Enforceable Agreement between the City of Milpitas and Tamien Nation

Pursuant to California Government Code section 65913.4(b)(2), subsection (B), the parties, City of Milpitas and Tamien Nation ("Parties"), find that a potential tribal cultural resource could be affected by the proposed development at 1300 South Main Street ("Project"), and this enforceable agreement ("Agreement") is made between the parties on _____, 2021 on methods, measures, and conditions for tribal cultural resource treatment. Based on this Agreement, the development Permittee, AMG & Associates, LLC, ("Permittee") may submit an application for a development subject to the streamlined, ministerial approval process allowed under SB 35.

The Parties to this Agreement consent to the following conditions of approval to be included in the project approval(s):

COA #1: Prior to the commencement of any ground-disturbing activity on the Project site, the Permittee shall retain tribal monitors from Tamien Nation, as needed, to be present during all ground-disturbing activity associated with the project.

a. Tamien Nation shall be given five (5) days' written notice prior to the start of any ground-disturbing activity as defined in subsection c. below. Permittee shall document receipt of notification in writing.

b. Prior to any ground-disturbing activity on the Project site, all Project personnel shall receive mandatory tribal cultural resource sensitivity training from Tamien Nation.

c. The tribal monitor will be present during construction phases that involve ground-disturbing activities. For the purposes of these conditions, ground-disturbing activities shall be defined as any ground disturbance, including but not limited to, excavation, grading, grubbing, scarring, drilling, scraping, blading, trenching, vegetation removal, or demolition of existing structures or site improvements within the development area shown on the Project plans.

d. The tribal monitor will complete daily monitoring logs that will provide description of the day's activities, includes construction activities, locations, and any cultural materials identified. The daily monitoring logs shall be retained by Tamien Nation.

e. Upon discovery of any tribal cultural resources (TCRs), all ground-disturbing and construction activities within 50 feet of discovery shall cease on the Project site until the find can be assessed to the satisfaction of Tamien Nation. All TCRs unearthed by project activities shall be evaluated by the tribal monitor or other tribal representatives and a registered professional archeologist.

f. At the discretion of Tamien Nation, soils that have been previously subject to excavations and were monitored by the tribal representative need not be monitored again if re-excavated or moved. Permittee shall consult with the tribal monitor prior to any disturbance of previously excavated soils.

g. Should Tamien Nation choose not to send a monitor for any of the above-referenced ground-disturbing activity, work may continue without the monitor, provided that the Permittee has

given a minimum of five (5) days' written notice to Tamien Nation. Permittee shall document receipt of notification in writing.

h. At the completion of monitoring, Tamien Nation shall send an email notification to the City that monitoring has been completed.

COA #2: Permittee shall retain a registered professional archaeologist for on-call site monitoring, investigation, and analysis in the event that TCRs or human remains are discovered and identified on the project site during ground-disturbing activities.

COA #3: In the event that TCRs are discovered on the Project site and cannot be avoided, a detailed archaeological treatment plan shall be implemented.

a. The treatment plan shall be developed by the on-call professional archaeologist in collaboration with and agreed upon by Tamien Nation to determine the most appropriate treatment measures to avoid, minimize, or mitigate any potential impacts. This shall include documentation of the resource and may include data recovery or other measures.

b. Any treatment other than preservation in place must be approved by Tamien Nation and the City of Milpitas. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in resource. Data recovery shall be subject to approval by Tamien Nation.

c. Tamien Nation shall determine the disposition of any TCR artifacts discovered during on-site excavation or construction activities or TCR artifacts resulting from execution of a treatment plan. The disposition of TCR artifacts shall include, but not be limited to, reburying in close proximity of the finds without scientific study, allowing scientific study before reburying the materials either near the origin of the find or in another protected place, or temporary curation at a facility at an institution that meets the U.S. Secretary of the Interior's criteria for curation (36 CFR 79) prior to reburial. Disposition of any TCR artifacts shall be subject to approval by Tamien Nation. All curation fees and related expenses shall be paid by the Permittee.

d. To ensure adequate space and protection are provided for reburial of any TCRs discovered on the project site, the Permittee shall designate a cultural easement area. The easement area shall be in a location that will not be subject to future disturbance and that will not require the relocation of buildings or other physical improvements on the site.

e. Tamien Nation shall have sole discretion in determining if reburial within the cultural easement area is the desired method of disposition.

f. The Project archeologist shall file State of California Department of Parks and Recreation (DPR) Series 523 forms for the cultural easement/TCR reburial location (if used) with the California Historical Resources Information System (CHRIS) Center in accordance with the guidelines established by the California Office of Historic Preservation. The DPR Series 523 forms shall establish a permanent record of the cultural easement location and any TCRs discovered on the Project site for future site identification and protection. The Project archeologist shall also file a Sacred Lands File record with the Native American Heritage Commission (NAHC) on behalf of Tamien Nation.

COA #4: In the event that human remains and/or grave goods are discovered or recognized during ground-disturbing activities or construction, all ground disturbance work shall cease within 50 feet of the discovery, and the tribal monitor shall immediately notify the construction supervisor. The construction supervisor shall ensure reasonable protection measures are taken to protect the discovery from disturbance (Assembly Bill [AB] 2641) and shall immediately notify the City and the Santa Clara County Medical Examiner-Coroner (per California Health and Safety Code Section 7050.5).

a. California Health and Safety Code Section 7050.5 stipulates that no further disturbance will occur in the area until the County Medical Examiner-Coroner has determined origin and disposition pursuant to California Public Resources Code Section 5097.98.

b. If the County Medical Examiner-Coroner determines that the remains are Native American in origin, the Medical Examiner-Coroner shall notify the NAHC by telephone within twenty-four (24 hours).

c. Pursuant to California Public Resources Code Section 5097.98(a), Tamien Nation shall be allowed to: (1) inspect the site of the discovery; and (2) make recommendations concerning the treatment and disposition of the human remains and/or grave goods.

d. Tamien Nation shall have forty-eight (48) hours from the time access to the Project site is granted to inspect the site and make recommendations concerning the treatment and disposition of the remains.

e. Tamien Nation shall have sole discretion regarding the final disposition and treatment of human remains and grave goods. Disposition may include avoidance of the human remains, reburial within the cultural easement identified on the project plans, or reburial on tribal or other lands that will not be disturbed in the future.

f. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

COA #5: Permittee shall, in consultation with Tamien Nation, incorporate into the Project design a commemorative plaque that acknowledges the traditional history of the land with respect to tribal communities.

11/17/2021
Quirina Luna Geary, Chairwoman
Tamien Nation

11/15/2021
Ned Thomas, Director
Milpitas Planning Department

DESIGN REVIEW SUBMITTAL
MAIN STREET
10TH SEPTEMBER 2021

SHEET INDEX

SHEET	DESCRIPTION
G1.0	COVER SHEET
	CIVIL EXHIBITS
C1.1	EXISTING CONDITION PLAN
C2.1	PRELIMINARY GRADING AND DRAINAGE PLAN
C3.1	PRELIMINARY UTILITY PLAN
C4.1	PRELIMINARY STORM WATER MANAGEMENT PLAN
	RESIDENTIAL BUILDING EXHIBITS
A1.0	CONCEPTUAL SITE PLAN
A1.1	CONCEPTUAL FIRE PLAN
A1.2	CONCEPTUAL SITE SECTIONS
A2.0	CONCEPTUAL BLDG. PLANS - BLDG. A
A2.1	CONCEPTUAL BLDG. PLANS - BLDG. A
A2.2	CONCEPTUAL BLDG. PLANS - BLDG. B
A2.3	CONCEPTUAL BLDG. PLANS - BLDG. B
A3.0	CONCEPTUAL UNIT PLANS
A4.0	CONCEPTUAL BLDG. ELEVATIONS - BLDG. A
A4.1	CONCEPTUAL BLDG. ELEVATIONS - BLDG. A
A4.2	CONCEPTUAL BLDG. ELEVATIONS - BLDG. B
A4.3	CONCEPTUAL BLDG. ELEVATIONS - BLDG. B
A5.0	CONCEPTUAL 3D VIEWS
A6.0	CONCEPTUAL MATERIAL AND COLOR BOARD
	LANDSCAPE EXHIBITS
L1	LANDSCAPE MASTER PLAN

CURRENT ZONING:	R4 - Multiple Family Very High Density District; TOD Overlay		
EXISITING USE	COMMERCIAL		
PROPOSED USE:	MULTIFAMILY RESIDENTIAL		
APN	083-36-002		
PROJECT ADDRESS:	1300 S MAIN STREET MILPITAS, CA 95035		
PROPOSED TYPE OF CONSTRUCTION:	TYPE III-A ON GRADE		
AUTOMATIC SPRINKLER:	YES		
FAR:			
ALLOWABLE FAR:	2		
PROPOSED FAR:	2.48		
LOT SIZE:			
SUBJECT PROPERTY:	0.96 ACRES (42,077 SF)		
NUMBER OF UNITS:	**112 UNITS**		
DENSITY:	112 UNITS / 0.96 ACRES = **117 DU/AC**		
UNIT MIX:	**BLDG A.**	**BLDG B.**	**TOTAL**
STUDIOS	10 UNITS (23%)	28 UNITS (40.5%)	38 UNITS (34%)
1 BEDROOM	9 UNITS (21%)	5 UNITS (7.5%)	14 UNITS (13%)
2 BEDROOM	4 UNITS (9.5%)	26 UNITS (37.5%)	30 UNITS (26.5%)
3 BEDROOM	20 UNITS (46.5%)	10 UNITS (14.5%)	30 UNITS (26.5%)
TOTAL	**43 UNITS**	**69 UNITS**	**112 UNITS**
GROSS FLOOR AREA	**BLDG A. (SQ.FT.)**	**BLDG B. (SQ.FT.)**	**TOTAL (SQ.FT.)**
1ST FLOOR	9,985	13,055	23,040
2ND FLOOR	10,355	12,740	23,095
3RD FLOOR	10,355	12,740	23095
4TH FLOOR	10,355	12,740	23095
5TH FLOOR	10,355	12,740	23095
GRAND TOTAL:	**51,405**	**64,015**	**115,420**
OPEN SPACE CALCULATIONS			
REQUIRED COMMON OPEN SPACE: 25% OF TOTAL SITE	10,520 SQ.FT.		
GROUND LEVEL COMMON OPEN SPACE:	6,985		
ENCLOSED COMMON SPACE (AMENITITIES):	1,140		
TOTAL OPEN SPACE PROVIDED (SQ.FT.):	**8,125**		
NUMBER OF STORIES:	5 STORIES		
SETBACKS:	REQUIRED	PROVIDED	
FRONT YARD:	12' - 20'	7'-11"	
SIDE YARD:	12'-20'	7'-6"	
REAR YARD:	12'-20'	6'-0"	
MAXIMUM HEIGHT PROVIDED (TOP OF STAIR TOWER):	64'-4"		
BIKE PARKING	REQUIRED	PROVIDED	
LONG TERM: 1 SPACE PER 4 UNITS	28 STALLS	28 STALLS	
SHORT TERM: 1 SPACE PER 20 PARKING SPACES	0 STALLS	0 STALLS	

Project Team

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AMG & ASSOCIATES, LLC
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ENCINO, CA 91426
(818) 380 2600 Ext. 14
Contact: ALEXIS GEVORGIAN
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4690 CHABOT DR, SUITE 200
PLEASANTON, CA 94588
(925) 227 9100
Contact: DOMINIC CARUCCI
dcarucci@rja-gps.com

MAP N.T.S

NORTH

G1.0

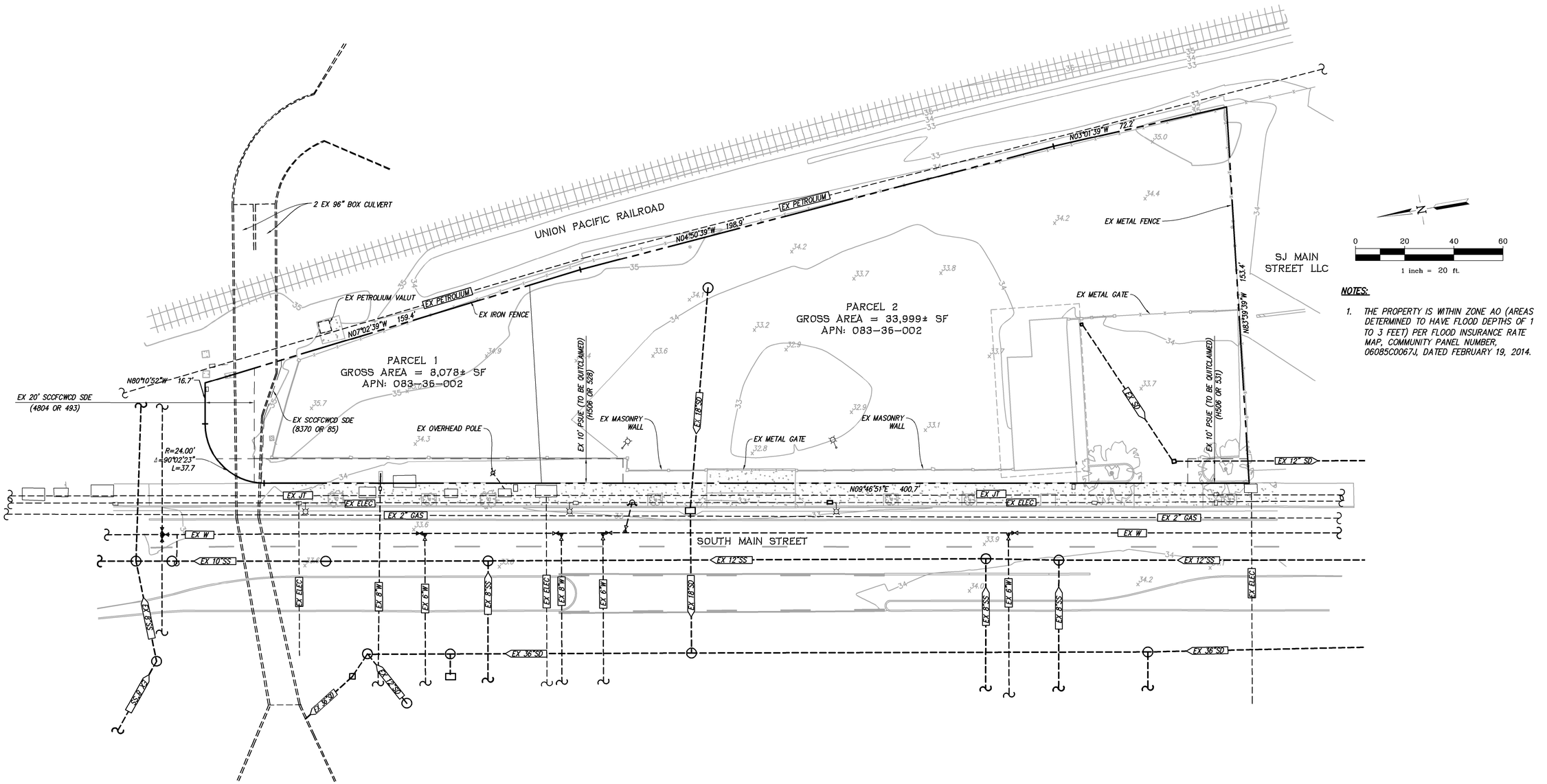
MAIN STREET
MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.



NOTES:

1. THE PROPERTY IS WITHIN ZONE AO (AREAS DETERMINED TO HAVE FLOOD DEPTHS OF 1 TO 3 FEET) PER FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER, 06085C0067J, DATED FEBRUARY 19, 2014.

EXISTING CONDITIONS PLAN
1300 SOUTH MAIN STREET

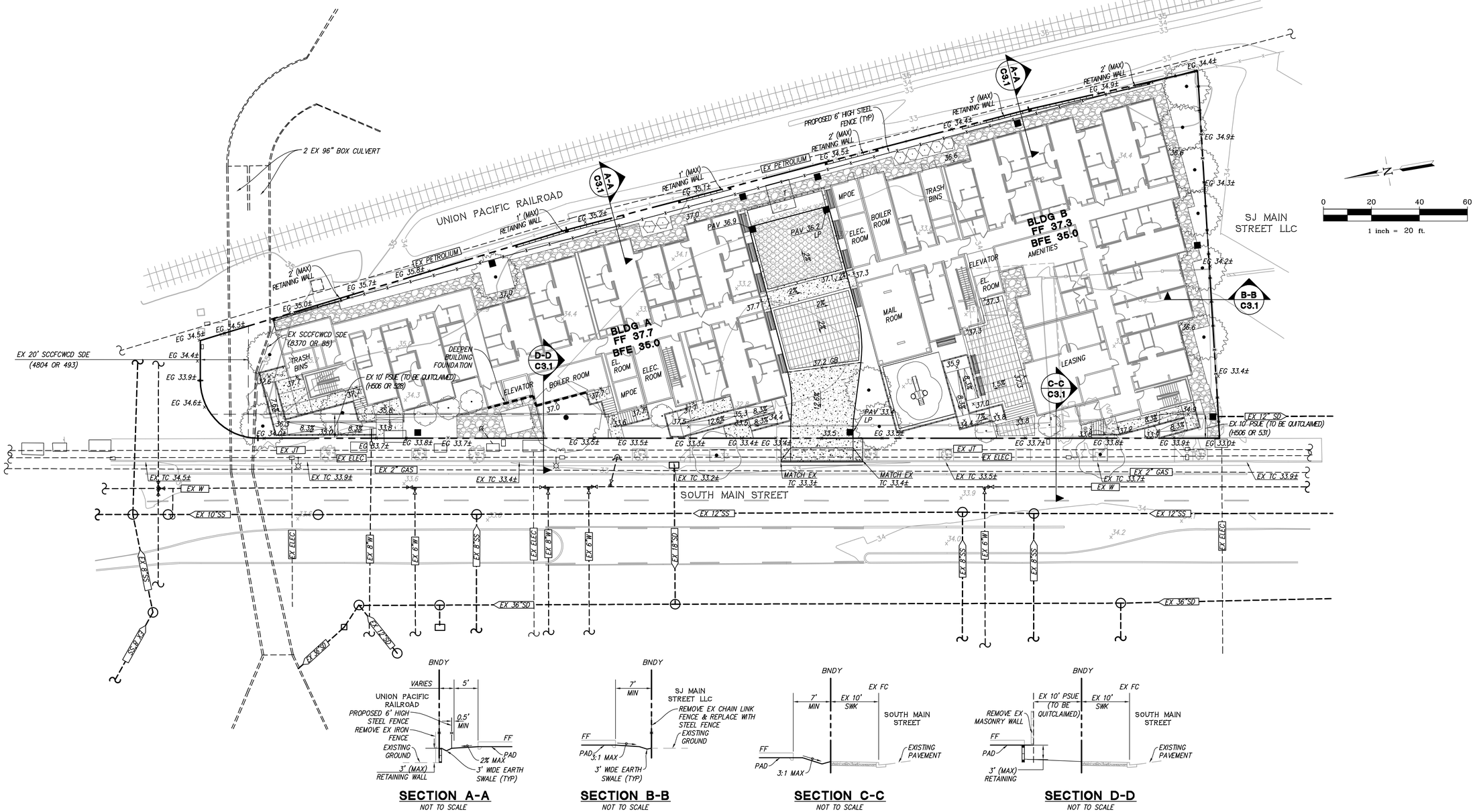
CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

FOR: AMG & ASSOCIATES

RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

DATE: JUNE 7, 2021 JOB NO. 211023 C1.1

G:\JOBS\2021\211023\CAD FILES\02-PLANNING\PDT\C1.01TO-211023PDL.DWG 6/7/2021 11:21:43 AM WILL BARTHLOW



SECTION A-A
NOT TO SCALE

SECTION B-B
NOT TO SCALE

SECTION C-C
NOT TO SCALE

SECTION D-D
NOT TO SCALE

PRELIMINARY GRADING AND DRAINAGE PLAN

1300 SOUTH MAIN STREET

CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

FOR: AMG & ASSOCIATES

RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

DATE: JUNE 7, 2021 JOB NO. 211023 C2.1

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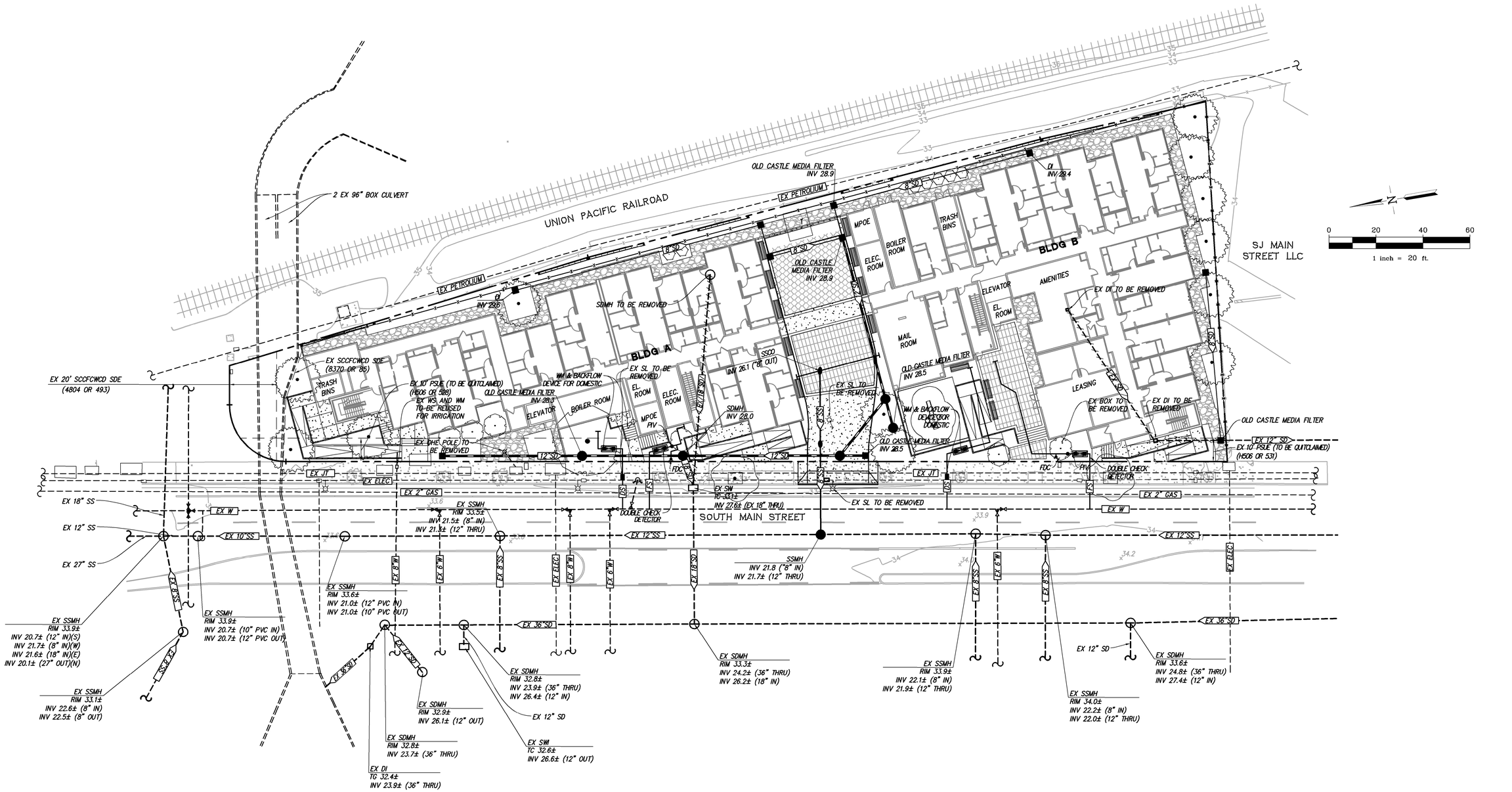
LEGEND

EX UTILITY TO BE REMOVED



PRELIMINARY UTILITY PLAN
1300 SOUTH MAIN STREET

CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

FOR: AMG & ASSOCIATES

RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

DATE: JUNE 7, 2021 JOB NO. 211023 **C3.1**

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STORMWATER TREATMENT CALCULATIONS

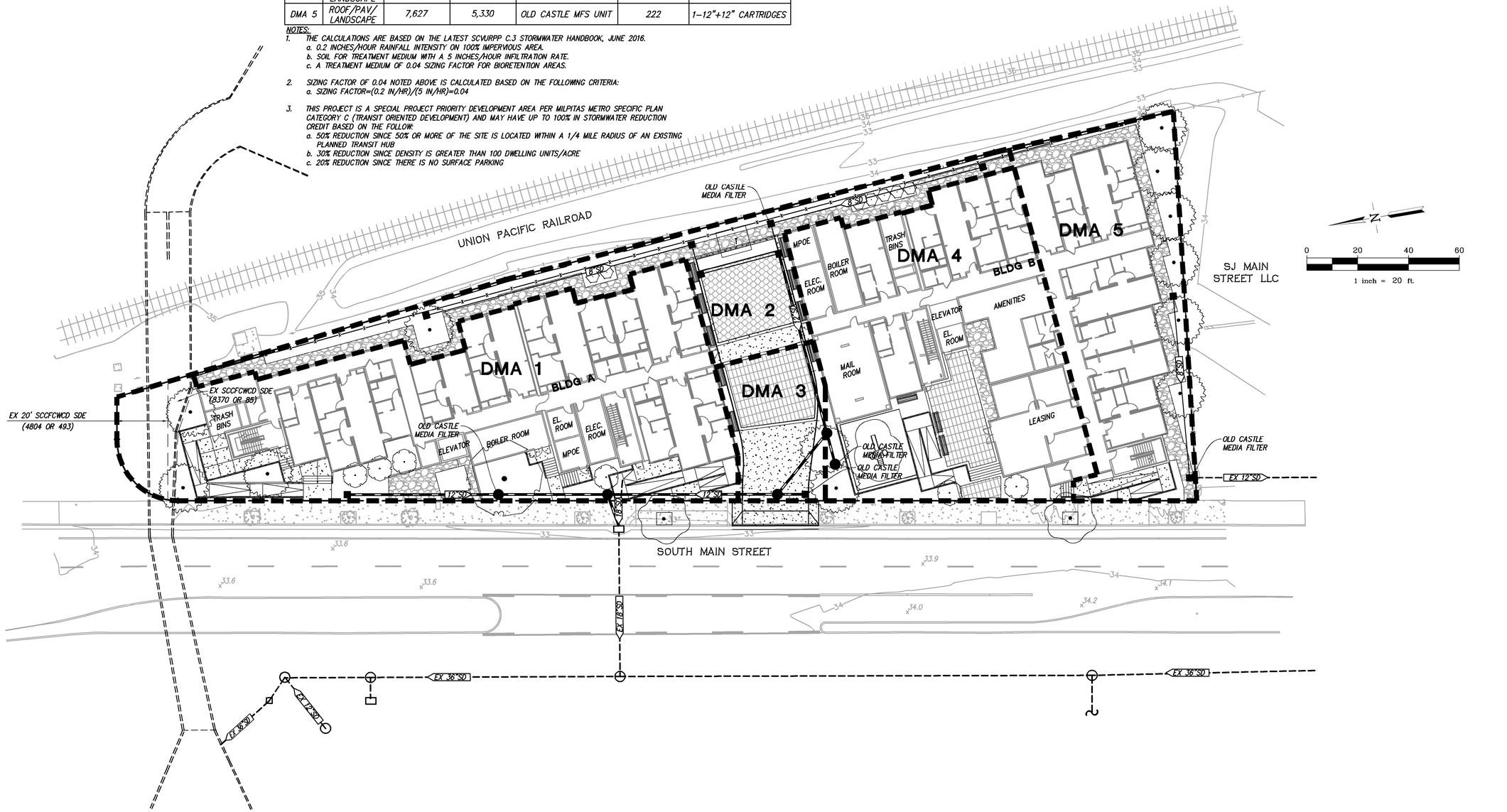
AREA ID	SURFACE TYPE	TOTAL AREA AREA (SF)	IMPERVIOUS AREA (SF)	BMP USED	REQUIRED SURFACE AREA (SF)	SURFACE AREA PROVIDED
DMA 1	ROOF/PAV/ LANDSCAPE	15,254	12,213	OLD CASTLE MFS UNIT	501	2-12"+12" CARTRIDGES
DMA 2	PAV/ LANDSCAPE	5,500	1,509	OLD CASTLE MFS UNIT	76	1-12" CARTRIDGE
DMA 3	ROOF/PAV/ LANDSCAPE	2,168	1,763	OLD CASTLE MFS UNIT	72	1-12" CARTRIDGE
DMA 4	ROOF/PAV/ LANDSCAPE	11,528	9,915	OLD CASTLE MFS UNIT	403	1-18" CARTRIDGE
DMA 5	ROOF/PAV/ LANDSCAPE	7,627	5,330	OLD CASTLE MFS UNIT	222	1-12"+12" CARTRIDGES

NOTES:

1. THE CALCULATIONS ARE BASED ON THE LATEST SCVURPP C.3 STORMWATER HANDBOOK, JUNE 2016.
   a. 0.2 INCHES/HOUR RAINFALL INTENSITY ON 100% IMPERVIOUS AREA.
   b. SOIL FOR TREATMENT MEDIUM WITH A 5 INCHES/HOUR INFILTRATION RATE.
   c. A TREATMENT MEDIUM OF 0.04 SIZING FACTOR FOR BIORETENTION AREAS.
2. SIZING FACTOR OF 0.04 NOTED ABOVE IS CALCULATED BASED ON THE FOLLOWING CRITERIA:
   a. SIZING FACTOR=(0.2 IN/HR)/(5 IN/HR)=0.04
3. THIS PROJECT IS A SPECIAL PROJECT PRIORITY DEVELOPMENT AREA PER MILPITAS METRO SPECIFIC PLAN CATEGORY C (TRANSIT ORIENTED DEVELOPMENT) AND MAY HAVE UP TO 100% IN STORMWATER REDUCTION CREDIT BASED ON THE FOLLOW:
   a. 50% REDUCTION SINCE 50% OR MORE OF THE SITE IS LOCATED WITHIN A 1/4 MILE RADIUS OF AN EXISTING PLANNED TRANSIT HUB
   b. 30% REDUCTION SINCE DENSITY IS GREATER THAN 100 DWELLING UNITS/ACRE
   c. 20% REDUCTION SINCE THERE IS NO SURFACE PARKING

LEGEND

DRAINAGE MANAGEMENT AREA (DMA)



PRELIMINARY STORMWATER MANAGEMENT PLAN

1300 SOUTH MAIN STREET

CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

FOR: AMG & ASSOCIATES

RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

DATE: JUNE 7, 2021 JOB NO. 211023 C4.1

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CURRENT ZONING:	R4 - Multiple Family Very High Density District; TOD Overlay		
EXISITING USE	COMMERCIAL		
PROPOSED USE:	MULTIFAMILY RESIDENTIAL		
APN	083-36-002		
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AUTOMATIC SPRINKLER:	YES		
FAR:			
ALLOWABLE FAR:	2		
PROPOSED FAR:	2.48		
LOT SIZE:			
SUBJECT PROPERTY:	0.96 ACRES (42,077 SF)		
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LONG TERM: 1 SPACE PER 4 UNITS	28 STALLS	28 STALLS	
SHORT TERM: 1 SPACE PER 20 PARKING SPACES	0 STALLS	0 STALLS	

LEGEND

7 COUNT BICYCLE PARK RACK

NORTH

1"=20'-0" 0 10' 20' 40' 60'

CONCEPTUAL SITE PLAN

A1.0

09-10-2021
2020-503

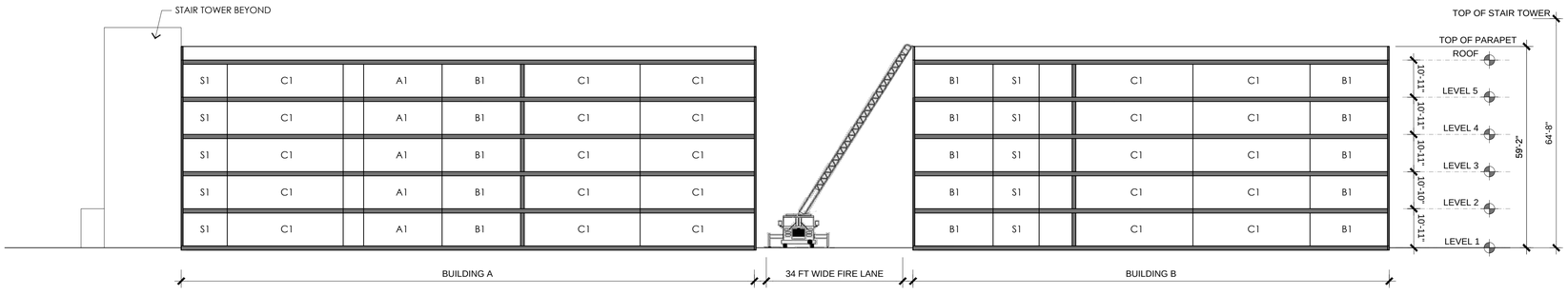
MAIN STREET

MILPITAS,CA

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.



LEGEND

- STAIR WITH ROOF ACCESS
- PROPOSED FIRE ACCESS DRIVEWAY
- NEW PUBLIC FIRE HYDRANT
- 150' HOSE PULL
- FIRE AREA SEPARATION WALL
- MAIN ACCESS POINT TO BUILDING
- GUERNY-SIZE ELEVATOR
- FIRE APPARATUS FOR BUILDING A
- FIRE APPARATUS FOR BUILDING B

NORTH

1"=20'-0" 0 10' 20' 40' 60'

CONCEPTUAL FIRE PLAN

A1.1

09-10-2021
2020-503

MAIN STREET

MILPITAS,CA

AMG & ASSOCIATES

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144 NORTH ORANGE ST., ORANGE, CA 92866
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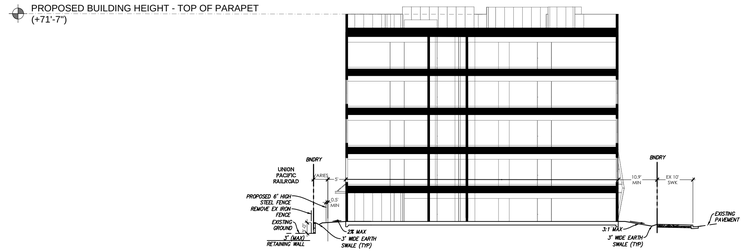
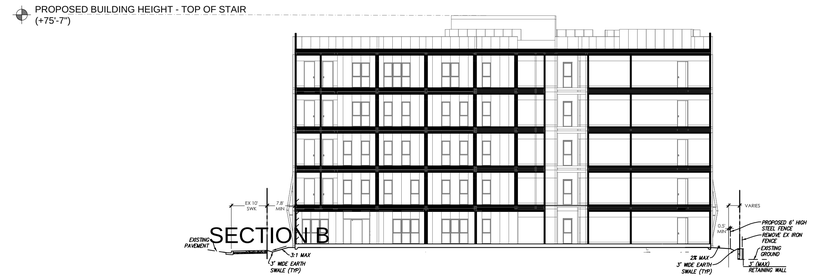
Architecture. Design. Relationships.



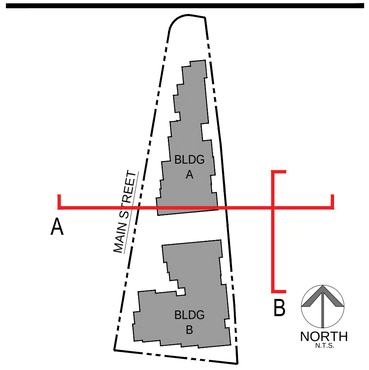
SECTION A

SECTION B



SECTION C

KEY MAP



1"=20'-0" 0 10' 20' 40' 60'

CONCEPTUAL SITE SECTIONS

A1.2

GRANT & 1ST

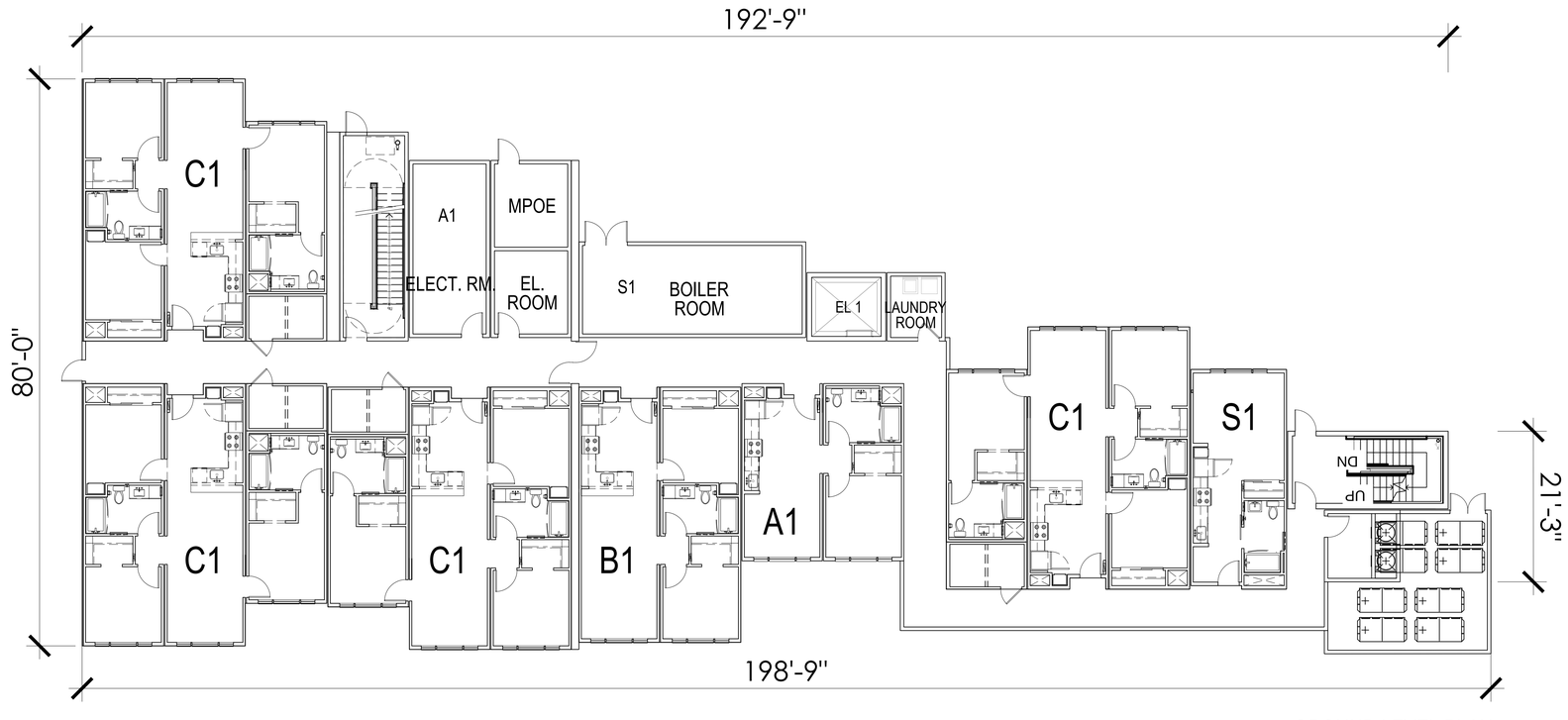
NOVATO, CA

AMG & ASSOCIATES

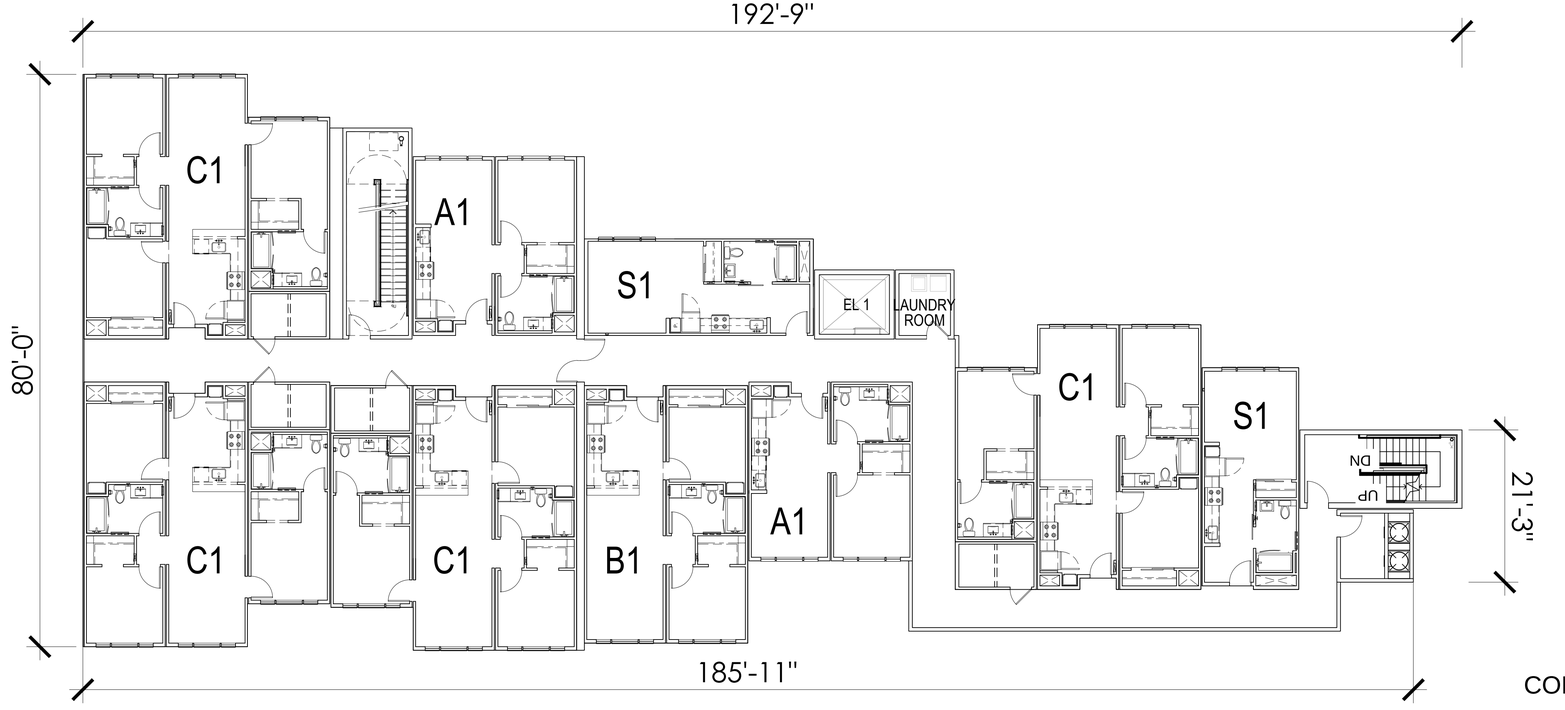
DATE: 05-27-2021
JOB NO.: 2020-275

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.

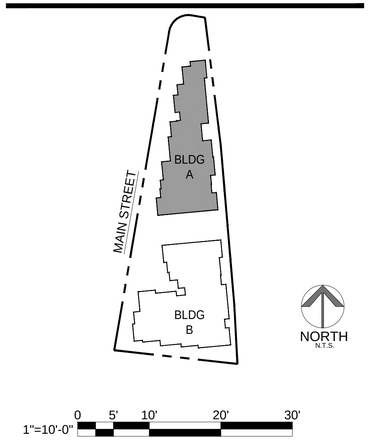


GROUND LEVEL PLAN



TYPICAL UPPER PLAN

KEY MAP



CONCEPTUAL BLDG. PLANS - BLDG. A

A2.0

MAIN STREET

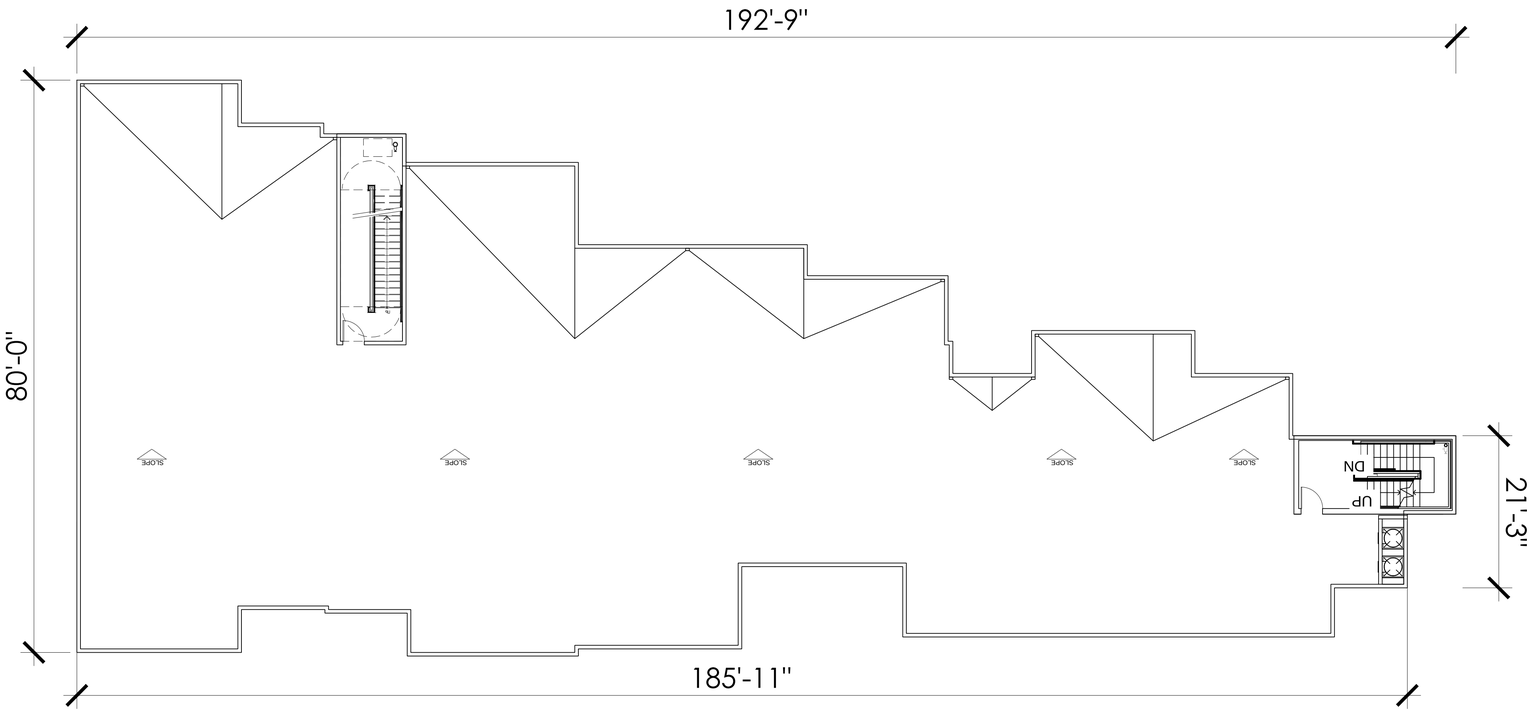
MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

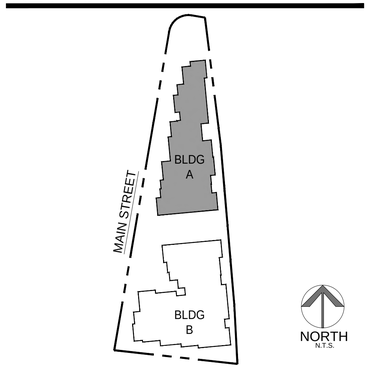
AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture. Design. Relationships.



ROOF LEVEL PLAN

KEY MAP



1"=10'-0" 0 5' 10' 20' 30'

CONCEPTUAL BLDG. PLANS - BLDG. A

A2.1

TYPICAL UPPER PLAN

09-10-2021
2020-503

MAIN STREET

MILPITAS,CA

AMG & ASSOCIATES

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144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

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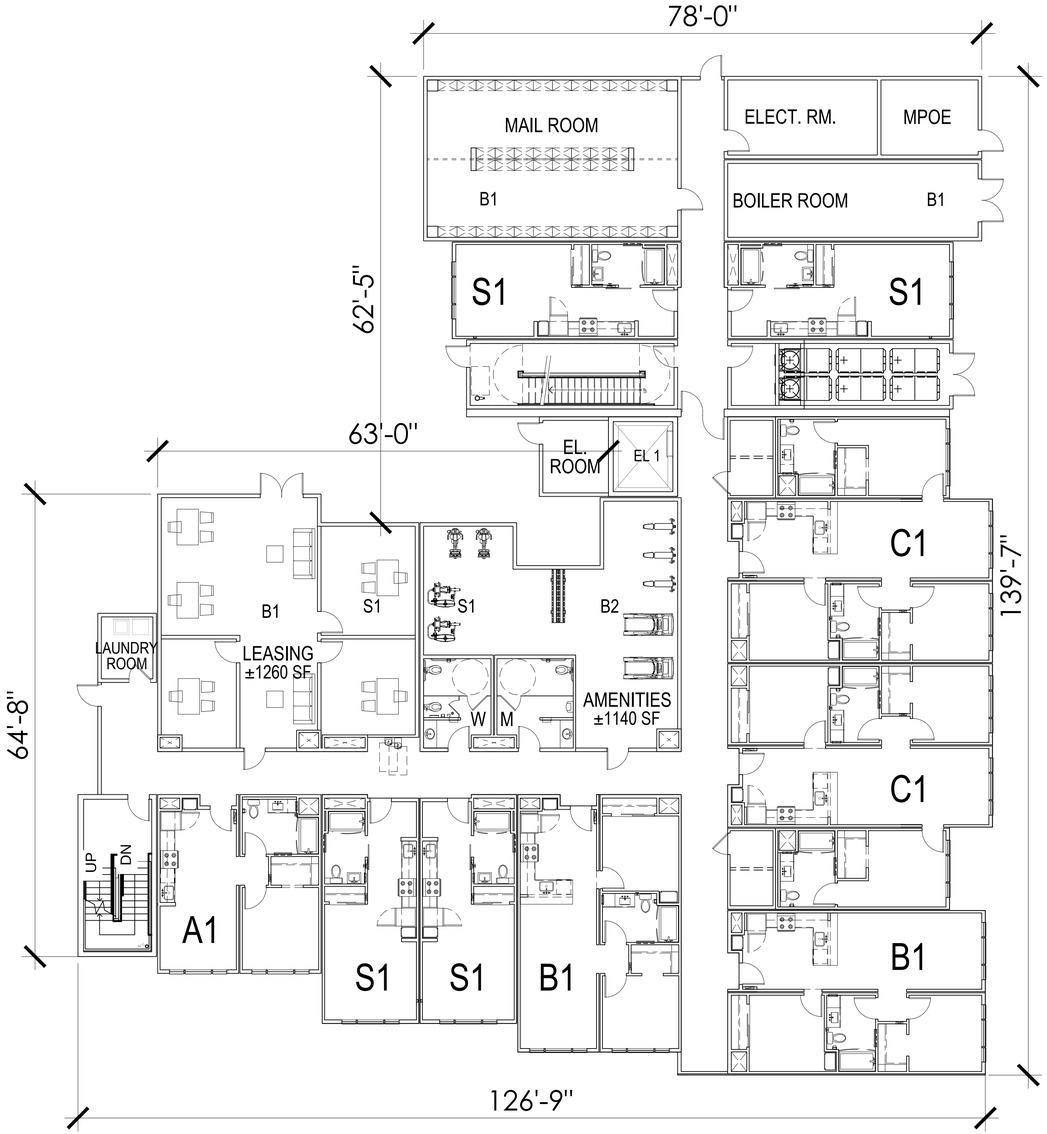
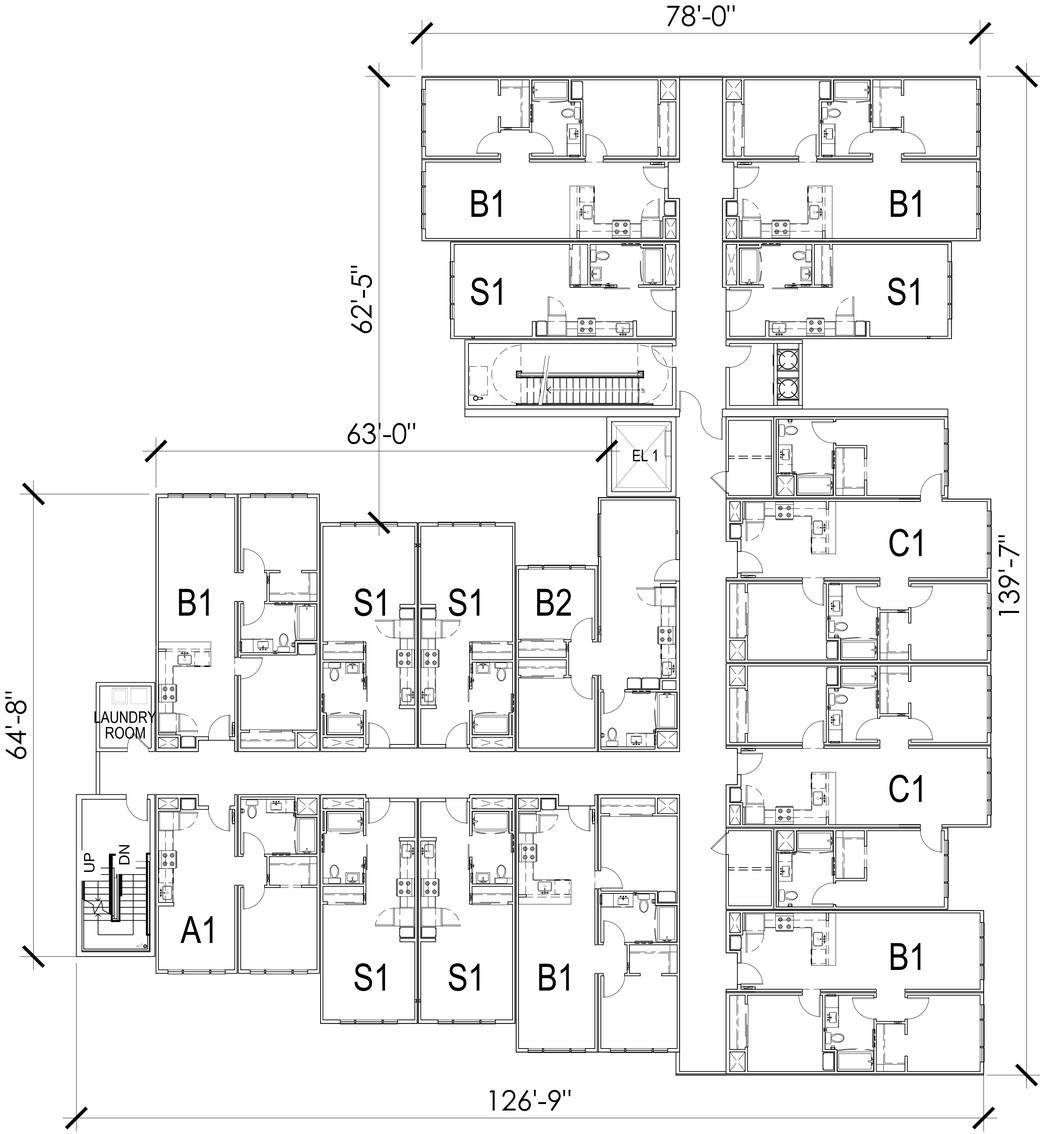
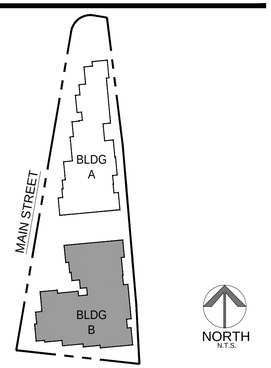


GROUND LEVEL PLAN



TYPICAL UPPER PLAN

KEY MAP



1"=10'-0" 0 5' 10' 20' 30'

CONCEPTUAL BLDG. PLANS - BLDG. B

A2.2

MAIN STREET

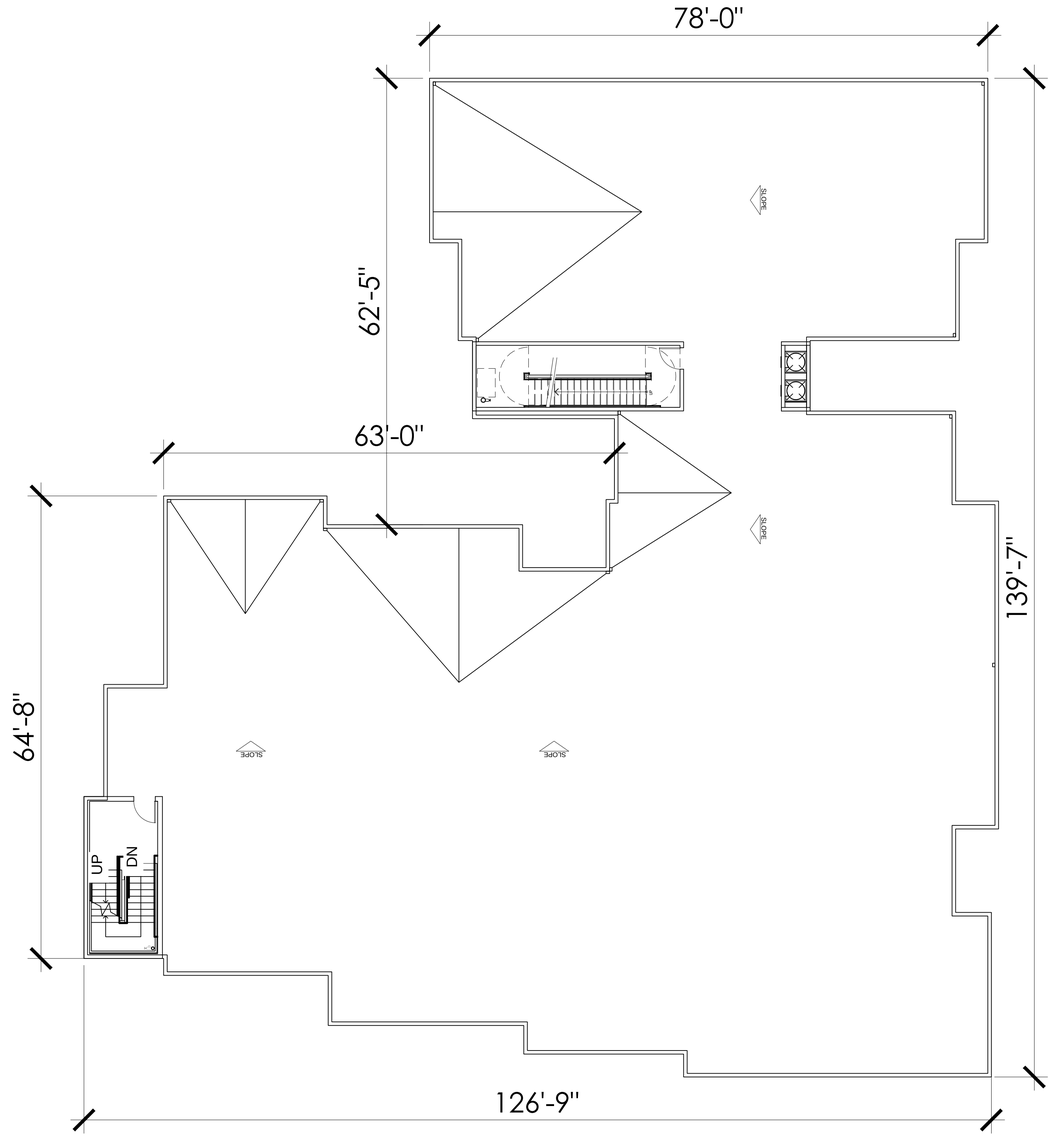
MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

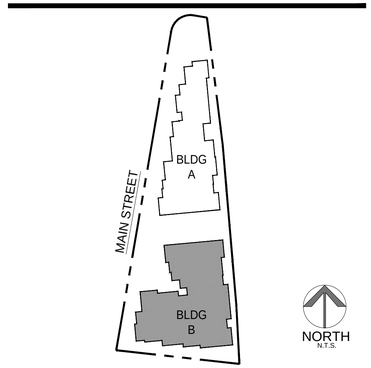
AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture. Design. Relationships.



ROOF LEVEL PLAN

KEY MAP



1"=10'-0" 0 5' 10' 20' 30'

CONCEPTUAL BLDG. PLANS - BLDG. B

A2.3

MAIN STREET

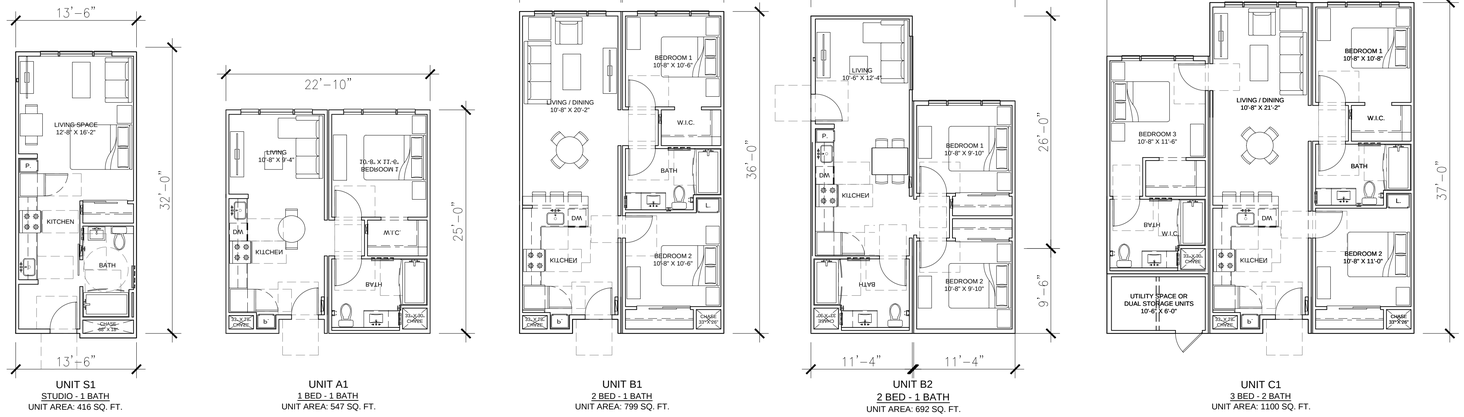
MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.



UNIT S1
STUDIO - 1 BATH
UNIT AREA: 416 SQ. FT.

UNIT A1
1 BED - 1 BATH
UNIT AREA: 547 SQ. FT.

UNIT B1
2 BED - 1 BATH
UNIT AREA: 799 SQ. FT.

UNIT B2
2 BED - 1 BATH
UNIT AREA: 692 SQ. FT.

UNIT C1
3 BED - 2 BATH
UNIT AREA: 1100 SQ. FT.

1/8"=1'-0" 0 4' 8' 16' 24'

CONCEPTUAL UNIT PLANS

A3.0

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

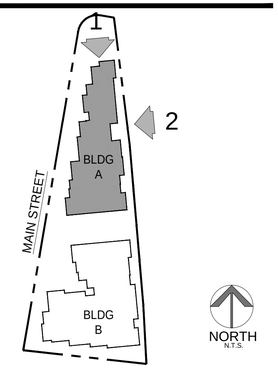
AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.

BUILDING A - NORTH ELEVATION 1

BUILDING A - EAST ELEVATION 2

KEY MAP



1"=10'-0" 0 5' 10' 20' 30'

CONCEPTUAL BLDG. ELEVATIONS - BLDG. A

A4.0

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

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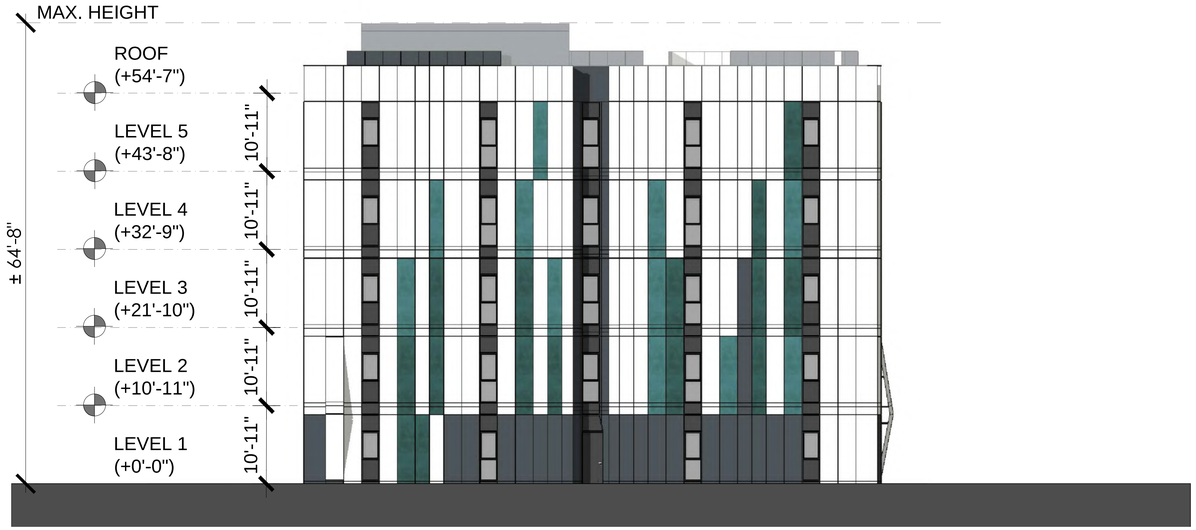
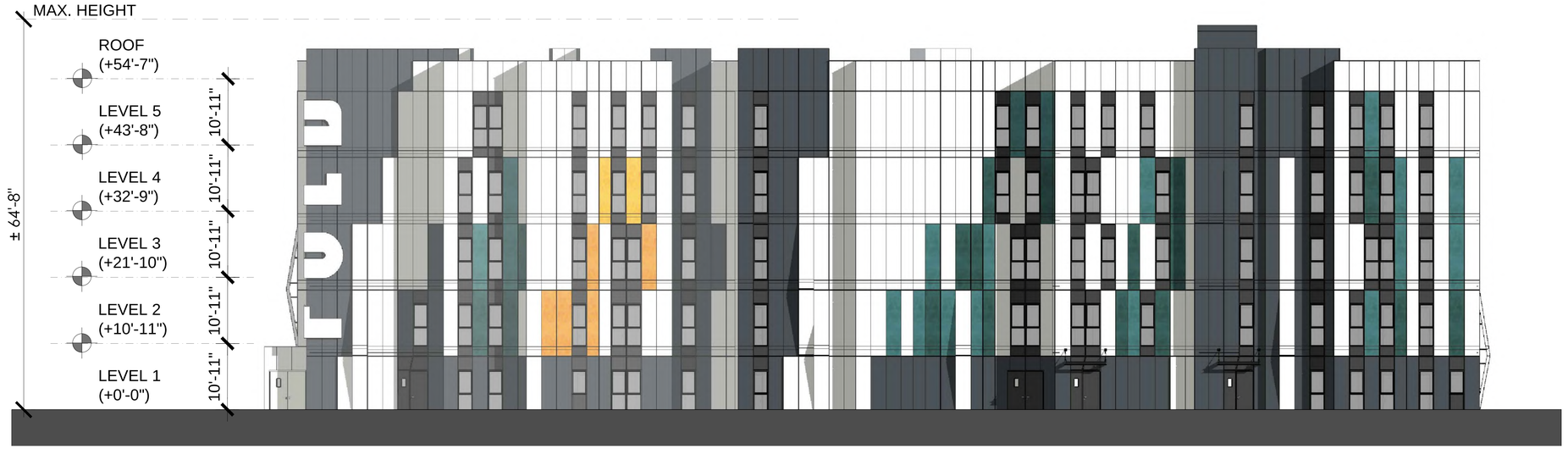
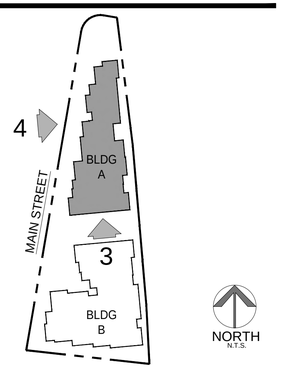


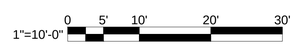
BUILDING A - SOUTH ELEVATION 3



BUILDING A - WEST ELEVATION 4

KEY MAP





CONCEPTUAL BLDG. ELEVATIONS - BLDG. A

A4.2

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

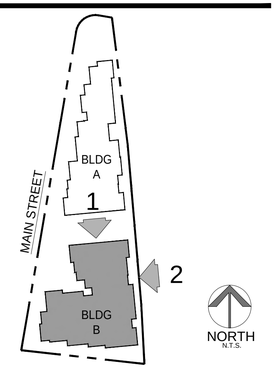
AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

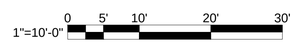
Architecture.
Design.
Relationships.

BUILDING B - NORTH ELEVATION 1

BUILDING B - EAST ELEVATION 2

KEY MAP





CONCEPTUAL BLDG. ELEVATIONS - BLDG. B

A4.3

MAIN STREET

MILPITAS,CA

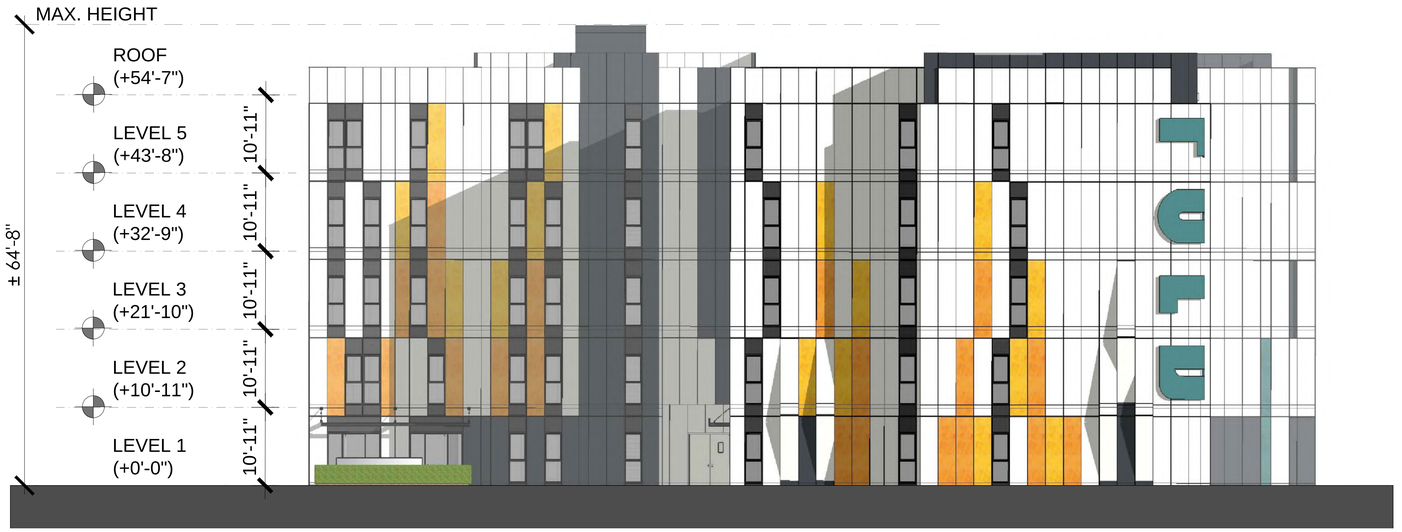
09-10-2021
2020-503

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

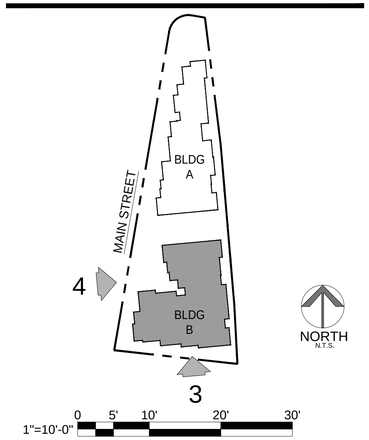
Architecture.
Design.
Relationships.

BUILDING B - SOUTH ELEVATION 3



BUILDING B - WEST ELEVATION 4

KEY MAP



CONCEPTUAL BLDG. ELEVATIONS - BLDG. B

A4.3

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

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AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.

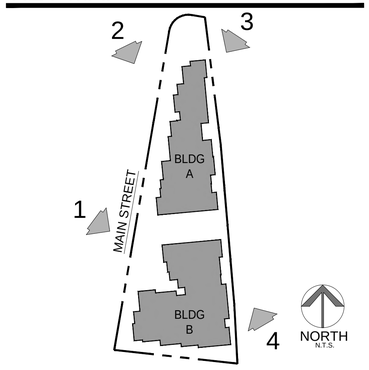
VIEW FROM RAIL ROAD TRACKS LOOKING NORTH 4

VIEW ON MAIN STREET LOOKING SOUTH 2

VIEW FROM RAIL ROAD TRACKS LOOKING SOUTH 3

VIEW ON MAIN STREET LOOKING TOWARDS BUILDING B LEASING 1

KEY MAP



CONCEPTUAL 3D VIEWS

A5.0

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.

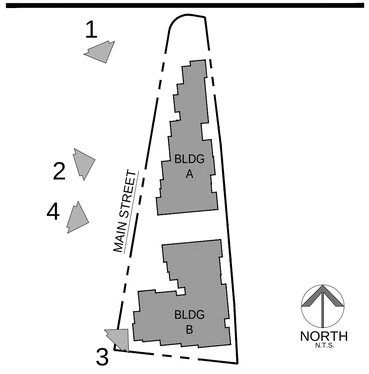
VIEW ON MAIN STREET LOOKING SOUTHEAST 4

VIEW FROM MAIN STREET LOOKING AT BUILDING A 2

VIEW FROM SOUTHWEST CORNER OF BUILDING B LOOKING NORTH 3

VIEW FROM NORTHEAST CORNER OF BUILDING A LOOKING SOUTH 1

KEY MAP



CONCEPTUAL 3D VIEWS

A5.1

MAIN STREET

MILPITAS,CA

09-10-2021
2020-503

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AO ARCHITECTS
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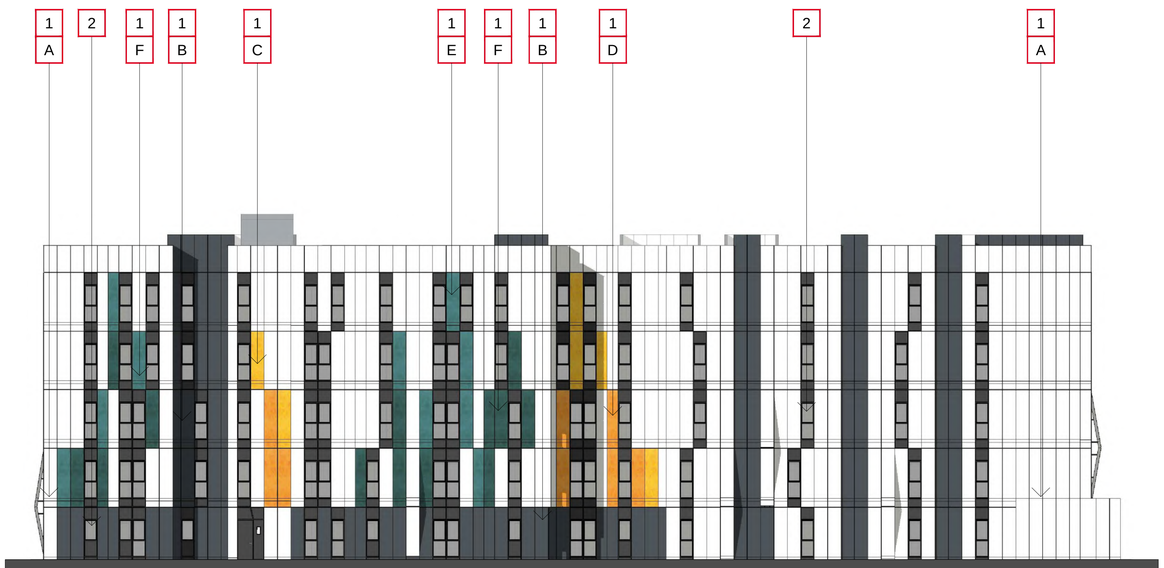
Architecture.
Design.
Relationships.



BUILDING A - EAST ELEVATION

BUILDING B - NORTH ELEVATION

A. SW 7757 HIGH REFLECTIVE WHITE

B. SW 9685 AFTER THE STORM

C. SW 6905 GOLDFINCH

D. SW 6894 FORCEFUL ORANGE

E. SW 6481 GREEN BAY

F. SW 6475 COUNTRY SQUIRE

1. STUCCO
LIGHT SAND FINISH

2. VINYL WINDOWS
BLACK OR EQUAL

3. ALUMINUM STOREFRONT WINDOW
BLACK OR EQUAL

4. METAL AWNING
BLACK OR EQUAL

CONCEPTUAL MATERIAL AND COLOR BOARD

A6.0

09-10-2021
2020-503

MAIN STREET

MILPITAS,CA

AMG & ASSOCIATES

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE, CA 92866
(714) 639-9860

Architecture.
Design.
Relationships.

PLANT SCHEDULE

2021-06-07 10:59

SHRUBS	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	ARCTOSTAPHYLOS DENSIFLORA 'HOWARD MCMINN'	HOWARD MCMINN MANZANITA	5 GAL	LOW
	BERBERIS THUNBERGII 'CRIMSON PYGMY'	CRIMSON PYGMY BARBERRY	5 GAL	MEDIUM
	CALLISTEMON VIMINALIS 'LITTLE JOHN'	DWARF WEEPING BOTTLEBRUSH	5 GAL	LOW
	CEANOTHUS X 'JULIA PHELPS'	CALIFORNIA LILAC	5 GAL	LOW
	CISTUS SALVIIFOLIUS 'PROSTRATUS'	SAGELEAF ROCKROSE	5 GAL	
	CISTUS X PURPUREUS	ORCHID ROCKROSE	5 GAL	LOW
	MAHONIA REPENS	CREEPING MAHONIA	1 GAL	LOW
	NANDINA DOMESTICA 'GULF STREAM' TM	HEAVENLY BAMBOO	5 GAL	LOW
	PRUNUS CAROLINIANA 'BRIGHT 'N TIGHT' TM	BRIGHT 'N TIGHT CAROLINA LAUREL	5 GAL	
	TEUCRIUM X LUCIDRYS PROSTRATUM	GERMANDER	1 GAL	
	WESTRINGIA FRUTICOSA 'MORNING LIGHT'	MORNING LIGHT COAST ROSEMARY	5 GAL	LOW

GRASSES	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER'	FEATHER REED GRASS	5 GAL	LOW
	FESTUCA IDAHOENSIS 'SISKIYOU BLUE'	SISKIYOU BLUE FESCUE	1 GAL	LOW
	MUHLENBERGIA CAPILLARIS 'PINK CLOUD'	PINK MUHLY	1 GAL	LOW
	PENNISETUM ALOPECUROIDES 'HAMELN'	HAMELN DWARF FOUNTAIN GRASS	1 GAL	LOW

PERENNIALS	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	DIANELLA REVOLUTA 'DTN03' TM	BABY BLISS FLAX LILY	1 GAL	LOW
	DIETES VEGETA	AFRICAN IRIS	1 GAL	LOW
	IRIS DOUGLASIANA	DOUGLAS IRIS	1 GAL	LOW
	SALVIA GREGGII 'RED'	AUTUMN SAGE	5 GAL	LOW - MEDIUM
	TULBAGHIA VIOLACEA 'SILVER LACE'	SILVER LACE SOCIETY GARLIC	1 GAL	LOW

SUCCULENTS	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	AGAVE X 'BLUE GLOW'	BLUE GLOW AGAVE	5 GAL	LOW

VINE/ESPALIER	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	CAMPSIS RADICANS	TRUMPET CREEPER VINE	5 GAL	MEDIUM

PLANT SCHEDULE

2021-06-07 11:01

TREES	BOTANICAL NAME	COMMON NAME	SIZE	QTY	WATER USE
	EXISTING TREE TO REMAIN		---	8	
	GINKGO BILOBA 'PRINCETON SENTRY'	PRINCETON SENTRY GINGKO	15 GAL	6	MEDIUM
	JUNIPERUS SCOPULORUM 'WICHITA BLUE'	WICHITA BLUE JUNIPER	15 GAL	7	LOW
	PISTACIA CHINENSIS 'KEITH DAVEY'	KEITH DAVEY CHINESE PISTACHE	15 GAL	1	LOW
	STREET TREE MATCH EXISTING	STREET TREE	24"	2	
	TRISTANIA LAURINA 'ELEGANT'	ELEGANT WATER GUM	24"	12	LOW

PLANT SCHEDULE

2021-06-07 10:55

GROUND COVERS	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	QTY
	SHRUB & GROUND COVER	PLANTING AREA	5 GAL	36" O.C.	5,322 SF

MATERIALS	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	QTY
	DECOMPOSED GRANITE	4'' DEPTH	---		3,494 SF

TURF GASS	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	QTY
	ARTIFICIAL TURF NA PET TURF II	EPS TURF	---		1,092 SF
	FALL ZONE MATERIAL ARTIFICIAL TURF TYPE	FALL ZONE	---		639 SF
	GRASSPAVE2 VEHICLE REINFORCEMENT		---		1,085 SF

LANDSCAPE PLAN

0 20 40 80 feet

SCALE: 1" = 20'

NORTH

LANDSCAPE PLAN NOTES:

A. 6' STEEL FENCE WITH VINE PLANTINGS
B. 5' WIDE DECOMPOSED GRANITE FIRE ACCESS
C. RAMP AND STAIR ENTRANCE INTO THE BUILDING. REFER TO THE CIVIL ENG. PLANS.
D. OUTDOOR ENTRANCE PLAZA WITH ACCENT PAVING.
E. BENCH LOCATION, TYPICAL
F. OUTDOOR PLAY EQUIPMENT AREA WITH ARTIFICIAL TURF TYPE FALL ZONE MATERIAL. RECREATIONAL USE AREA IS AT THE PLAZA LEVEL
G. PERIMETER RETAINING WALL WITH A 4' HIGH STEEL FENCE
H. FIRE ACCESS LANE
I. ACCENT PAVING OUTDOOR GATHERING SPACE
J. CONNECTING WALK WAY
K. ARTIFICIAL TURF PET AREA REINFORCED WITH GRASSPAVE2 SUBSURFACE MATERIAL.
L. 12" WIDE PERIMETER FLAT CURB
M. SCREEN THE SITE UTILITIES WITH PLANTINGS WHERE POSSIBLE
N. ELECTRICAL TRANSFORMER WITH 3' CLEAR SPACE AND ACCESS
O. DRAINAGE EASEMENT
P. TRASH STAGING AREA
Q. EXISTING STREET TREES AND FRONTAGE IMPROVEMENTS TO REMAIN
R. PROPOSED NEW STREET TREE AND TREE WELL

THOMAS H. PHELPS
LANDSCAPE ARCHITECTURE
IDLA, INC.
California Landscape Architect #4122
ID #LA-16771 * HI #LA-16112

P.O.BOX 170129
Boise, Idaho 83717
thp@idlainc.net
(208) 906-1300

MAIN STREET
AMG & ASSOCIATES, INC.
XXXXXXXXX
XXXXXXXXX, CALIFORNIA

These drawings are instruments of service and are the property of Thomas H. Phelps Landscape Architecture, ID. Designs and other information on the drawings are for the use on the specified project and shall not be used otherwise without the express written permission of Thomas H. Phelps Landscape Architecture.

Sheet Title
LANDSCAPE PLAN

Seal
LICENSED LANDSCAPE ARCHITECT
THOMAS H. PHELPS #4122
Registered
08/31/22
Renewal Date
STATE OF CALIFORNIA

No.	Date	Revision
1		
2		
3		
4		
5		

Project Mgr.: THP
Drawn By: THP
Scale: 1"=20'
Date: 08 JUNE 2021
File Name:
Sheet No.: L1
of _____ sheets

AMG & ASSOCIATES

P.O. Box 260770
Encino, California 91426
Land Planning, Finance & Development
Tel. 818-380-2600

November 23, 2021

Michael Fossati
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

Re: Senate Bill 35 Streamlined Ministerial Process
1300 South Main Street, Milpitas, CA 95035 (APN: 083-36-002)

Dear Mr. Fossati,

This is an application for a development permit pursuant to Government Code 65913.4, otherwise known as Senate Bill 35.

SENATE BILL 35 DETERMINATION

Located at 1300 South Main Street in Milpitas, CA, we submit this project pursuant to California Senate Bill 35 ("SB 35"). Effective January 1st, 2018, SB 35 amended Government Code Section 65913.4 to create a streamlined and ministerial approval process for certain housing projects in jurisdictions that have not met their Regional Housing Needs Allocation (RHNA) goals. The City of Milpitas is subject to SB 35 because it did not issue sufficient building permits to meet its RHNA obligation for the most recent reporting period, per the California Department of Housing & Community Development's ("HCD") Statewide Determination Summary, dated July 30th, 2021:

	Permits	RHNA
Very Low Income	142	1004
Low Income	0	570
Moderate Income	0	565
Above Moderate	3504	1151

The California Environmental Quality Act ("CEQA") does not apply to the SB 35 approval process because the approval is ministerial and projects are judged based on compliance with objective planning standards that do not entail the exercise of discretion as long as project meets certain criteria. See Cal. Pub. Res. Code §21080(b)(l)(CEQA does not apply to ministerial projects); see also 14 Cal. Code. Regs §15268(a) ("Ministerial projects are exempt from the requirements of CEQA").

As required by SB 35, the Application is in full consistency with all applicable objective planning standards currently imposed by the City, notwithstanding the concessions the Project is entitled to through its use of the State Density Bonus Law. As permitted by SB 35, parking is not required at the project because it is located within one-half mile of the VTA Greatmall Light Rail Station; a map is included in Exhibit A.

The table below lists the Project's compliance with SB 35's individual eligibility requirements for the streamlined ministerial approval of compliant housing developments. All citations are to California Government Code Section 65913.4.

#	ELIGIBILITY REQUIREMENT	SATISFIED?
1	**The project is a multifamily housing development (2 or more units) (subd. (a)(1)).**	**YES**
	RESPONSE: The project is 112 units.	
2	**Is the project located in an area designated by the U.S. Census Bureau as an urbanized area? (subd. (a)(2(A)).**	**YES**
	RESPONSE: The Project is located within the U.S. Census urbanized area boundary for San Jose, CA.	
3	**Is more than 75% of the Project site's perimeter developed with urban uses? (subds. (a)(2)(B), (h)(8)).**	**YES**
	RESPONSE: "Urban uses" in SB 35 is defined as "any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses." SB 35 further clarifies that "parcels that are only separated by a street or highway shall be considered to be adjoined." Based on these standards, the entirety of the project site's perimeter is developed with urban uses.	
4	**Does the site have either zoning or a general plan designation that allows for residential use or residential mixed-use development, with at least two-thirds of the square footage designated for residential use? Subd. (a)(2)(C).**	**YES**
	RESPONSE: The General Plan designation is Multi-Family Residential, Very High Density (VHD) based on the adopted General Plan at the time of Notice of Intent filing. The Zoning designation is zoned Multi Family Residential (R4) with a TOD overlay. Both designations allow residential use. The proposed project will be made up entirely of a residential use with incidental uses related to it, i.e. fitness room, community room, etc.	
5	**Will the applicant record a land use restriction for the Project's affordable housing units? Subd. (a)(3).**	**YES**
	RESPONSE: Yes. We will be requesting a density bonus and per the City's Municipal Code we are required to enter into an affordable housing agreement with the City. In addition, we will apply for tax credits with the California Tax Credit Allocation Committee which will require us to enter into a Regulatory Agreement.	
6	**Has HCD determined that the local jurisdiction is subject to SB 35? Subd. (a)(4)(A).**	**YES**
	RESPONSE: The City of Milpitas is subject to SB 35 per HCD's determination that they have not made sufficient progress to meet their Very Low Income and Low Income RHNA numbers.	
7	**Will the Project include the required percentage of below market rate housing units? (subd. (a)(4)(B)).**	**YES**
	RESPONSE: The project will comply with Government Code Section 65915(c)(1)(G), wherein one hundred percent of the total units, exclusive of a manager's unit or units will be for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.	
8	**Is the Project consistent with "objective zoning standards" and "objective design review standards?" (subd. (a)(5)).**	**YES**
	RESPONSE: The Project as proposed is consistent with the City's "objective zoning standards" with the exception of those concessions/waivers we are seeking under State Density Bonus Law.	
9	**Is the project located outside of all types of areas exempted from SB 35? Subd. (a)(6-7).**	**YES**
	RESPONSE: The project site is not located within any of the below exempt areas.	

	Subd. (a)(6) exempt areas: ● **Coastal zone** ● **Prime farmland or farmland of statewide importance** ● **Wetlands** ● **High or very high fire hazard severity zones** ● **Hazardous waste sites** ● **Earthquake fault zone (unless the development complies with applicable seismic protection building code standards)** ● **Floodplain or floodway designated by FEMA** ● **Lands identified for conservation in an adopted natural community conservation plan or habitat conservation plan** ● **Habitat for a state or federally protected species** ● **Land under a conservation easement**	
	RESPONSE: The project site is not located on any of the above areas as indicated in enclosed maps and per the below: ● In regards to wetlands, please refer to the enclosed Property Evaluation prepared by Monk & Associates. ● The site is located within special flood hazard area (Zone A). We will take the necessary steps to comply with Section 401(b)(7) of the HCD SB 35 Guidelines in order to be eligible for the streamlined ministerial approval process. Please refer to the enclosed FEMA map	
	Subd. (a)(7) exempt areas: ● **A development that would require the demolition of housing that:** ○ **Is subject to recorded rent restrictions** ○ **Is subject to rent or price control** ○ **Was occupied by tenants within the last 10 years** ○ **A site that previously contained housing occupied by tenants within past 10 years** ○ **A development that would require the demolition of a historic structure on a national, state, or local register** ○ **The property contains housing units that are occupied by tenants, and units at the property are/were offered for sale to the general public by the subdivider or subsequent owner of the property.**	
	RESPONSE: There haven't been any dwelling units on the property at any point during the last ten years. The project would not require the demolition of any residential or historic structures.	
	Subd. (a)(10) exempt areas: ● **Land governed under the Mobilehome Residency Law** ● **Land governed by the Recreational Vehicle Park Occupancy Law** ● **Land governed by the Mobilehome Parks Act** ● **Land governed by the Special Occupancy Parks Act**	
	RESPONSE: The project site is not located on land governed by any of the above laws.	
10	**Will all construction workers employed in the Project be paid at least the general prevailing wage? (subd. (a)(8)(B)).**	**YES**
	The Applicant shall comply with all SB 35 requirements including Subdivision (a)(8) of California Government Code Section 65913.4.	
11	**The development will not involve a subdivision of a parcel that is subject to the Subdivision Map Act unless either of the following applies (subd. (a)(9)).** ● **The development has received or will receive financing or funding by means of a low-income housing tax credit** **The development is subject to the requirement that prevailing wages be pad, and a skilled and trained workforce used, pursuant to paragraph (8).**	**YES**
	The project does not involve subdivision of a parcel.	

Should you have any questions on the project or completion of the form, please contact me at 818-697-4919 / kcalica@amgland.com.

Sincerely,

Kimberly Calica

Urban Uses
Uses surrounding Project Site
ELIGIBILITY #3
Legend
1300 S Main St
Project Site
Residential
Vacant
1300 S Main St
Google Earth
© 2021 Google
600 ft
146

Proximity to Transit
Legend
Half Mile Radius
Project Site
VTA Station
VTA Station
Project Site
Google Earth
2000 ft
147

Section 4 - Residential Zones and Standards*

* Prior ordinance history: Ords. 38, 38.19, 38.22, 38.207, 38.339, 38.373.1, 38.384, 38.526, 38.541, 38.561, 38.605, 38.646, 38.687, 38.702, 38.746, 38.758, 38.761, 38.763 and 38.776.

XI-10-4.01 - Purpose and Intent

A. Single-Family Residential (R1) Zone. The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R1 District is intended for the suburban family home and the services appurtenant thereto.

B. One and Two-Family Residential (R2) Zone. The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto.

C. Multi-Family High Density Residential (R3) Zone. The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote, insofar as compatible with the intensity of land use, a suitable environment for family life.

D. Multi-Family Very High Density Residential (R4) Zone. The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote a suitable residential environment. The "R4" District is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks.

E. Urban Residential (R5) Zone. The purpose and intent of this zone is to provide for high-density residential development structured around transit stations.

(Ord. 38.777 (6) (part), 6/17/08)

XI-10-4.02 - Residential Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. Primary Uses. The uses identified in Table XI-10-4.02-1, Residential Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted entirely within enclosed structures. The primary uses identified in Table XI-10-4.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section XI-10-57.04, Conditional Use Permits, of this chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section XI-10-57.04, Conditional Use Permits, of this chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

XI-10-12.06 - Transit Oriented Development (-TOD) Overlay District

A. Purpose and Intent. The purpose of the Transit Oriented Development Overlay District ("TOD") is to provide for land uses, land use densities and intensities and development standards that act to enhance and support transit and to locate such uses near rail transit stations. These provisions allow for a mix of goods and services within a convenient walk of the transit stations, encourage the creation of stable, attractive residential, commercial and industrial environments within the District and provide for a desirable transition to the surrounding conventional areas.

B. Applicability. The "-TOD" overlay can be combined with any zoning district on lands that are generally within a 2,000 foot walk from a rail transit station. If any of the regulations specified in the "-TOD" overlay district differ from any corresponding regulations of any district with the "-TOD" Overlay district is combined, then the provisions of the "-TOD" Overlay district shall govern.

C. Permitted, Accessory and Conditionally Permitted Uses. Permitted and conditional uses within the -TOD Overlay are the same uses as those allowed within the underlying base zones except as noted below. Refer to the use tables for Residential and Mixed Use Zones, within this chapter.

1. Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones.

    a. Retail stores, offices, and commercial service establishments as defined in Section XI-10-2.03, Definitions, provided they are:

        i. On the ground floor level;

        ii. Located on or within three hundred (300) feet of arterials or collectors including Great Mall Parkway, Montague Expressway, Milpitas Boulevard, Trade Zone Boulevard, and Piper Drive;

        iii. Less than or equal to ten thousand (10,000) square feet in gross floor areas;

        iv. Not open past 10:00 p.m.;

        v. Conducted wholly within a building, except for approved outdoor seating areas;

        vi. Not Adult Businesses as defined in Section XI-10-13.04, Adult Businesses, of this chapter;

        vii. Not specifically noted in Section XI-10-6.04, Mixed Use Zone General Development Standards, of this chapter, as requiring Conditional Use Permit approval; and

        viii. Not specifically noted in Section XI-10-6.04, Mixed Use Zone General Development Standards, of this chapter, as a use not permitted in a mixed-use district.

If items a through d are not met, then approval of a Conditional Use Permit is required in accordance with Section XI-10-57.04, of this chapter.

    b. Restaurants, or restaurants which include internet usage for customers, provided they:

        i. Are located on or within three hundred (300) feet of arterials or collectors including Great Mall Parkway, Montague Expressway, Milpitas Boulevard, Trade Zone Boulevard, and Piper Drive;

ii. Are located on the ground floor;

iii. Provide no dancing or live entertainment;

iv. Have only ancillary on-premise consumption of beer and wine associated with food sales;

v. Conform to the performance standards as listed in Subsection XI-10-6.02-5, Restaurant Uses within Mixed Use Zones, of this chapter.

If items a through d are not met, then approval of a Conditional Use Permit is required in accordance with Section XI-10-57.04, Conditional Use Permits, of this chapter.

c. Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in Section XI-10-54.08, Accessory Buildings and Structures, of this chapter.

2. Conditionally Permitted Uses. The following require the approval of a Conditional Use Permit in accordance with Section XI-10-57.04, Conditional Use Permits, of this chapter.

a. Retail stores, offices and commercial service establishments, as defined in Section XI-10-2.03, Definitions, of this chapter, which do not meet the criteria in Section XI-10-12.06(C)(1)(a), Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones, of this section.

b. Restaurants, or restaurants which include internet usage for customers, which do not meet the criteria in Section XI-10-12.06(C)(1)(b) Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones, of this chapter.

c. The following uses may be allowed on the ground floor of a mixed use or residential building if a Conditional Use Permit is granted by the Planning Commission:

i. Transit stations and parking.

ii. Small-scale commercial uses to serve residents and local pedestrian traffic and to transit users, such as dry cleaners, video rentals, day care centers and cafes.

D. Prohibited Uses.

1. Vehicle oriented window service facilities, including drive-up or drive-in services.

2. Adult Businesses, as defined in Section XI-10-13.04, Adult Businesses, of this chapter.

E. Development Standards. The development standards for the underlying base zoning district shall apply, except any deviations noted below:

1. MXD-TOD Areas.

a. Residential developments shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.

b. Residential building height shall not exceed four (4) stories and sixty (60) feet, including

special architectural elements such as towers and spires.

c. The maximum FAR for nonresidential buildings in the "MXD" District is one hundred percent (100% or 1.0).

2. MXD2-TOD Areas.

a. Residential developments shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed fifty (50) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.

b. Childcare Centers.

i. Childcare centers are exempt from the FAR limits.

ii. Square footage dedicated to childcare centers may be counted towards the commercial space requirement.

3. MXD3-TOD Areas.

a. Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed seventy-five (75) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.

b. Building Height. Greater height up to twenty-four (24) stories may be allowed with Planning Commission review.

c. Childcare Centers.

i. Childcare centers are exempt from the FAR limits.

ii. Square footage dedicated to childcare centers may be counted towards the commercial space requirement.

4. R3-TOD Areas.

a. Building Height. Residential building height shall not exceed four (4) stories and sixty (60) feet.

b. Residential Density. Residential density shall be a minimum of twenty-one (21) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross acre.

c. Nonresidential Intensity. Ground floor retail, restaurant, and commercial service uses are permitted up to a maximum Floor Area Ratio of thirty percent (0.30 or 30%).

d. Front and Street Side Setbacks.

i. There shall be a minimum setback of eight (8) feet and a maximum building setback of fifteen (15) feet from the property line.

iii. Where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of said easement as possible.

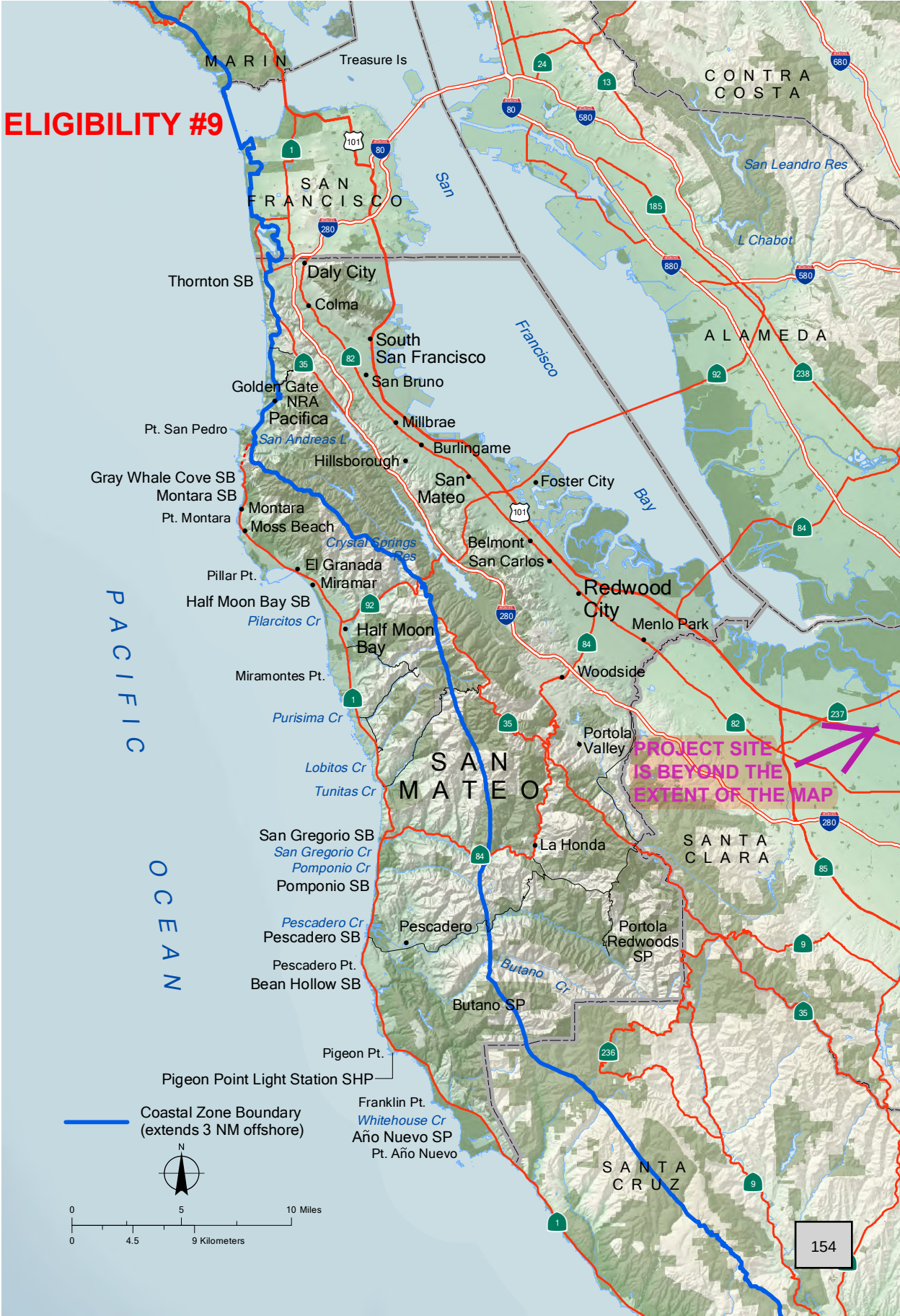
5. R4-TOD Areas.
   a. Building Height. Residential building height shall not exceed six (6) stories and seventy-five (75) feet.
   b. Residential Density. Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed sixty (60) dwellings units per gross acre.
   c. Nonresidential Intensity. Ground floor retail, restaurant, and commercial service uses are permitted up to a maximum Floor Area Ratio of fifty percent (0.50 or 50%).
   d. Front and Street Side Setbacks.
      i. There shall be a minimum setback of twelve (12) feet and a maximum building setback of twenty (20) feet from the property line.
      iii. Where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of said easement as possible.
6. R5-TOD Areas.
   a. Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed seventy-five (75) dwelling units per gross acre.
   b. Ground floor retail, restaurant, and commercial service uses are permitted, up to a maximum Floor Area Ratio of fifty percent (50% or 0.50).
   c. Ground Floor Commercial Design Standards. On retail mixed use streets, and in any other areas with ground floor retail, restaurant, and commercial service uses, the following standards apply:
      i. Ground Floor Commercial Depth. Ground floor commercial tenant spaces shall be at least sixty (60) feet deep. Exceptions may be allowed for small tenant spaces less than two thousand five hundred (2,500) square feet.
      ii. Floor to Ceiling Height.
         1. Retail: minimum eighteen (18) feet.
         2. Office: minimum fifteen (15) feet.
      iii. Windows. At least sixty (60) percent of the ground floor wall area between three (3) and eight (8) feet above the sidewalk shall be glass or other transparent material.
      iv. Blank Walls. No more than thirty (30) percent of the linear frontage per street may be blank. No more than twenty-five (25) contiguous feet in length may be blank.
      v. Building Entrances. There shall be at least one entrance per one hundred (100) feet of building frontage.
      vi. Exterior Materials. All ground floor exterior materials shall be durable, quality materials, such as tile, stone, brick or glass.
      vii. Wall Plane Articulation. Windows, doors, columns, and other features shall be

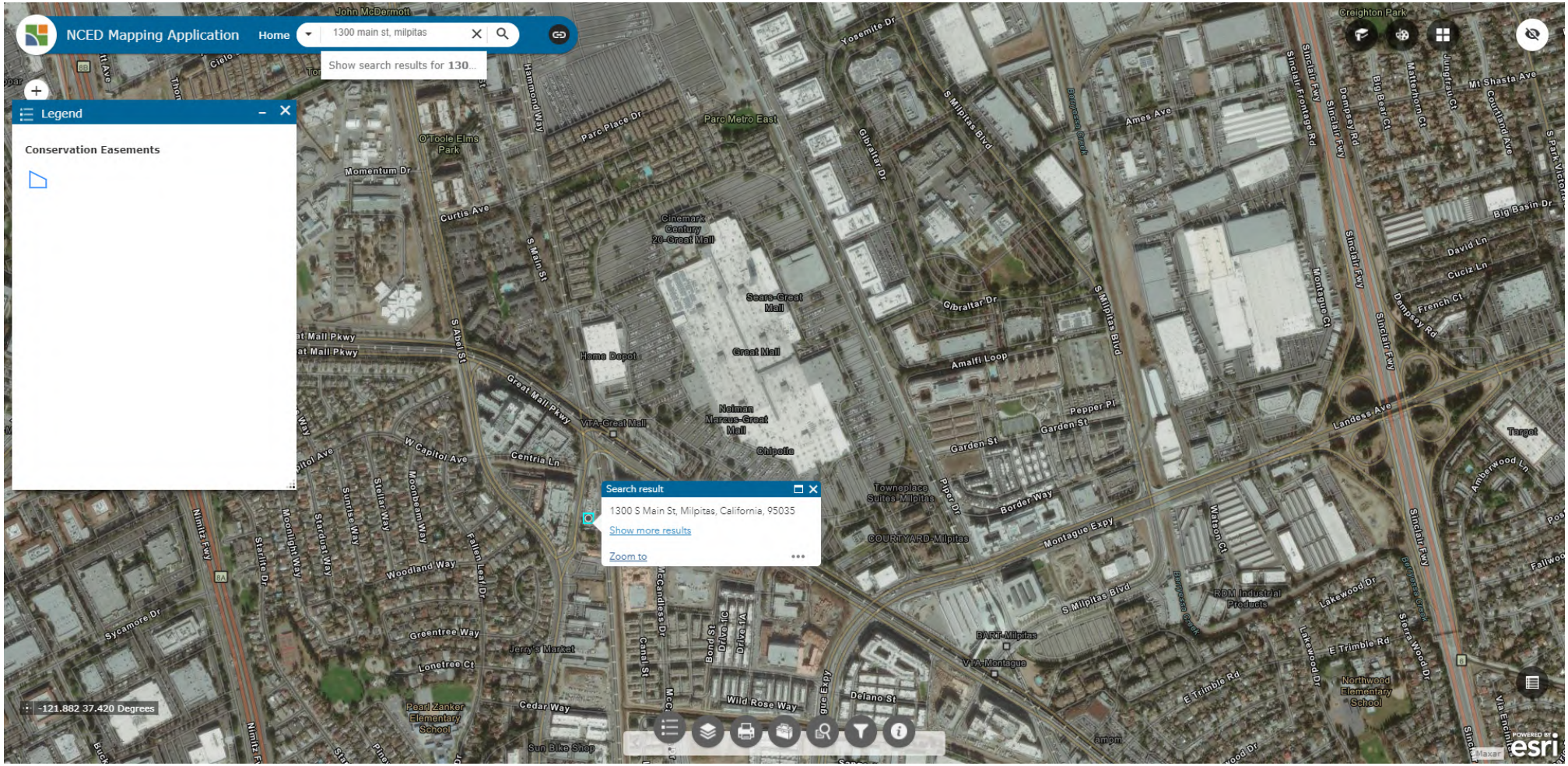
SB 35 Statewide Determination Summary

Cities and Counties Subject to SB 35 Streamlining Provisions When Proposed Developments Include ≥ 50% Affordability

These 220 jurisdictions have insufficient progress toward their Lower income RHNA (Very Low and Low income) and are therefore subject to the streamlined ministerial approval process (SB 35 (Chapter 366, Statutes of 2017) streamlining) for proposed developments with at least 50% affordability. If the jurisdiction also has insufficient progress toward their Above Moderate income RHNA, then they are subject to the more inclusive streamlining for developments with at least 10% affordability.

	JURISDICTION		JURISDICTION		JURISDICTION
106	LOS BANOS	140	PIEDMONT	175	SAN MARCOS
107	MALIBU	141	PISMO BEACH	176	SAN MARINO
108	MAMMOTH LAKES	142	PITTSBURG	177	SAN MATEO
109	MANHATTAN BEACH	143	PLACENTIA	178	SAN RAMON
110	MANTECA	144	PLACER COUNTY	179	SANTA BARBARA
111	MARIN COUNTY	145	PLACERVILLE	180	SANTA BARBARA COUNTY
112	MARINA	146	PLEASANTON	181	SANTA CLARA
113	MERCED	147	PLUMAS COUNTY	182	SANTA CRUZ
114	MILPITAS	148	PLYMOUTH	183	SANTA FE SPRINGS
115	MISSION VIEJO	149	POINT ARENA	184	SCOTTS VALLEY
116	MONO COUNTY	150	PORT HUENEME	185	SEAL BEACH
117	MONROVIA	151	PORTOLA VALLEY	186	SIERRA MADRE
118	MONTEREY COUNTY	152	RANCHO CORDOVA	187	SIMI VALLEY
119	MOORPARK	153	RANCHO CUCAMONGA	188	SOLANO COUNTY
120	MORAGA	154	RANCHO MIRAGE	189	SOUTH EL MONTE
121	MORGAN HILL	155	RANCHO PALOS VERDES	190	SOUTH PASADENA
122	MOUNTAIN VIEW	156	RANCHO ST. MARGARITA	191	SOUTH SAN FRANCISCO
123	MURRIETA	157	REDDING	192	STANTON
124	NAPA	158	REDWOOD CITY	193	SUNNYVALE
125	NAPA COUNTY	159	RIO VISTA	194	SUTTER COUNTY
126	NEWARK	160	ROCKLIN	195	SUTTER CREEK
127	NORWALK	161	ROLLING HILLS ESTATES	196	TEMECULA
128	OAKDALE	162	ROSEVILLE	197	TEMPLE CITY
129	OAKLAND	163	SAN ANSELMO	198	THOUSAND OAKS
130	OAKLEY	164	SAN BENITO COUNTY	199	TRACY
131	ORANGE	165	SAN BUENAVENTURA	200	TRINIDAD
132	ORANGE COUNTY	166	SAN CARLOS	201	TRINITY COUNTY
133	ORINDA	167	SAN CLEMENTE	202	TRUCKEE
134	PALM DESERT	168	SAN DIEGO	203	TULARE
135	PALM SPRINGS	169	SAN FRANCISCO	204	TUSTIN
136	PALO ALTO	170	SAN GABRIEL	205	UNION CITY
137	PASADENA	171	SAN JOSE	206	VACAVILLE
138	PERRIS	172	SAN JUAN CAPISTRANO	207	VERNON
139	PETALUMA	173	SAN LUIS OBISPO	208	VISTA
		174	SAN LUIS OBISPO CO.	209	WALNUT

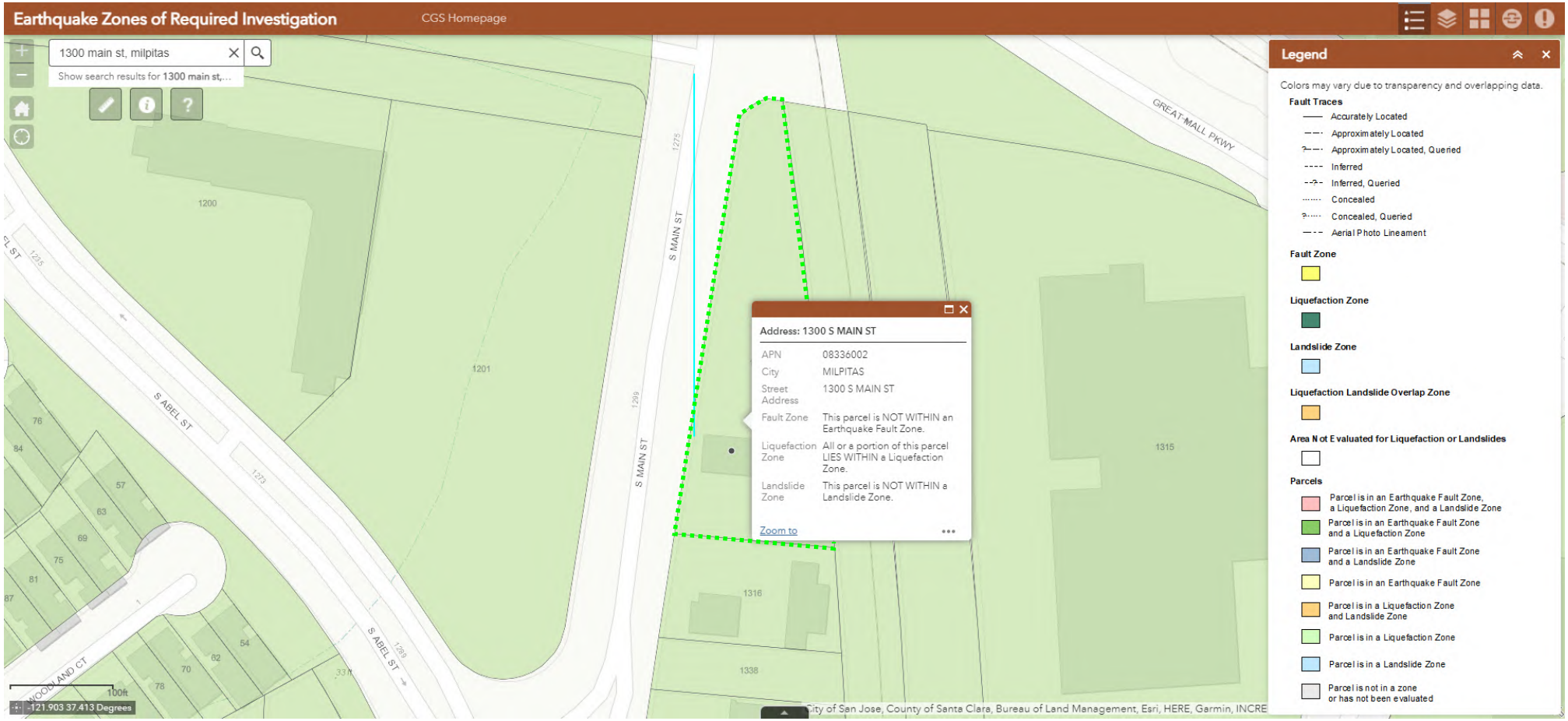

ELIGIBILITY #9
MARIN
Treasure Is
CONTRA COSTA
SAN FRANCISCO
San
Francisco
Bay
San Leandro Res
L Chabot
ALAMEDA
Thornton SB
Daly City
Colma
South San Francisco
San Bruno
Golden Gate NRA
Pacifica
Millbrae
Burlingame
Pt. San Pedro
San Andreas L
Hillsborough
Gray Whale Cove SB
Montara SB
Montara
Pt. Montara
Moss Beach
San Mateo
Foster City
Belmont
San Carlos
Crystal Springs Res
El Granada
Pillar Pt.
Miramar
Half Moon Bay SB
Pilarcitos Cr
Half Moon Bay
Redwood City
Menlo Park
Woodside
Miramontes Pt.
Purisima Cr
Portola Valley
PROJECT SITE IS BEYOND THE EXTENT OF THE MAP
Lobitos Cr
Tunitas Cr
SAN MATEO
San Gregorio SB
San Gregorio Cr
Pomponio Cr
Pomponio SB
La Honda
SANTA CLARA
Pescadero Cr
Pescadero SB
Pescadero
Portola Redwoods SP
Pescadero Pt.
Bean Hollow SB
Butano Cr
Butano SP
PACIFIC OCEAN
Pigeon Pt.
Pigeon Point Light Station SHP
Franklin Pt.
Whitehouse Cr
Año Nuevo SP
Pt. Año Nuevo
SANTA CRUZ
Coastal Zone Boundary
(extends 3 NM offshore)
N
0 5 10 Miles
0 4.5 9 Kilometers
154



ELIGIBILITY #9

Project is not located on property under a conservation easement

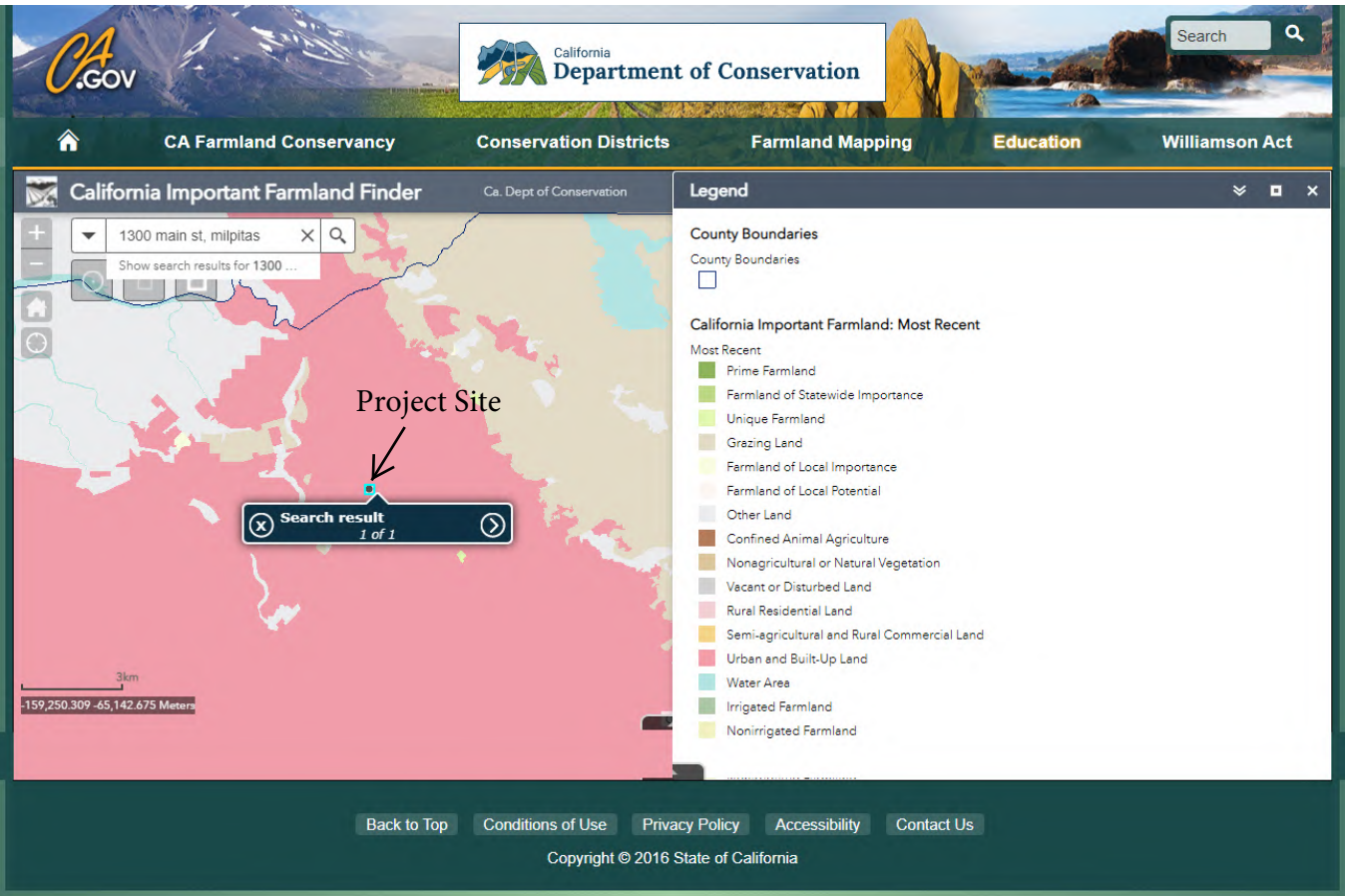
https://www.conservationeasement.us/interactivemap/



ELIGIBILITY #9

Project is not within delineated earthquake fault zone.

https://maps.conservation.ca.gov/cgs/EQZApp/app/



ELIGIBILITY #9

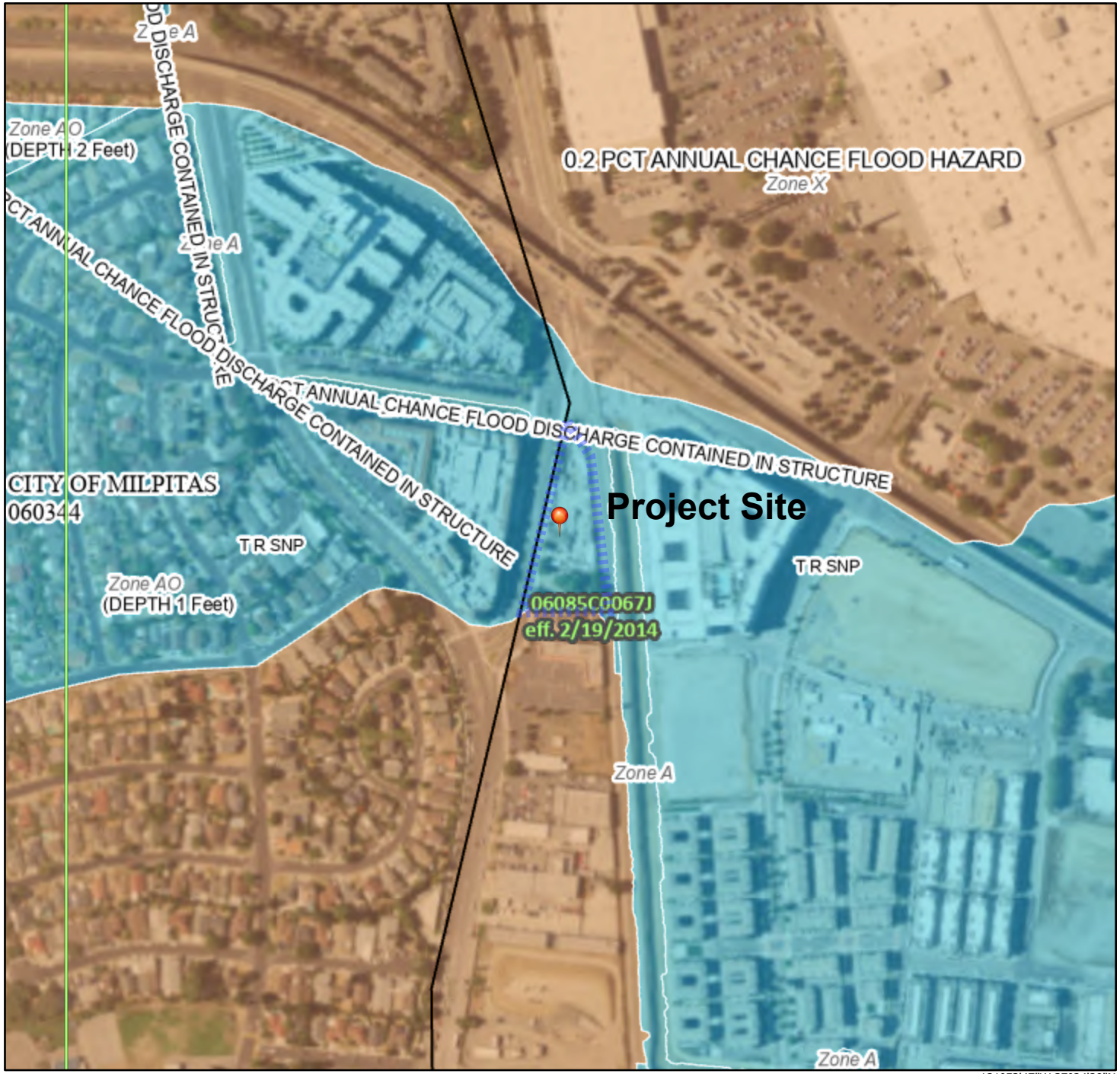
This project is not within prime farmland

https://maps.conservation.ca.gov/DLRP/CIFF/

National Flood Hazard Layer FIRMette

FEMA

121°54'25"W 37°24'58"N



121°53'47"W 37°24'29"N

0 250 500 1,000 1,500 2,000 Feet

1:6,000

Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS
- Without Base Flood Elevation (BFE) *Zone A, V, A99*
- With BFE or Depth *Zone AE, AO, AH, VE, AR*
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD
- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile *Zone X*
- Future Conditions 1% Annual Chance Flood Hazard *Zone X*
- Area with Reduced Flood Risk due to Levee. See Notes. *Zone X*
- Area with Flood Risk due to Levee *Zone D*

OTHER AREAS
- NO SCREEN Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs
- Area of Undetermined Flood Hazard *Zone D*

GENERAL STRUCTURES
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES
- 20.2 Cross Sections with 1% Annual Chance
- 17.5 Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS
- Digital Data Available
- No Digital Data Available
- Unmapped

N

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 5/3/2021 at 4:18 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community id FIRM panel number, and FIRM effective date. Map i unmapped and unmodernized areas cannot be use regulatory purposes.

ELIGIBILITY #9

Critical Habitat for Threatened & Endangered Species [USFWS]

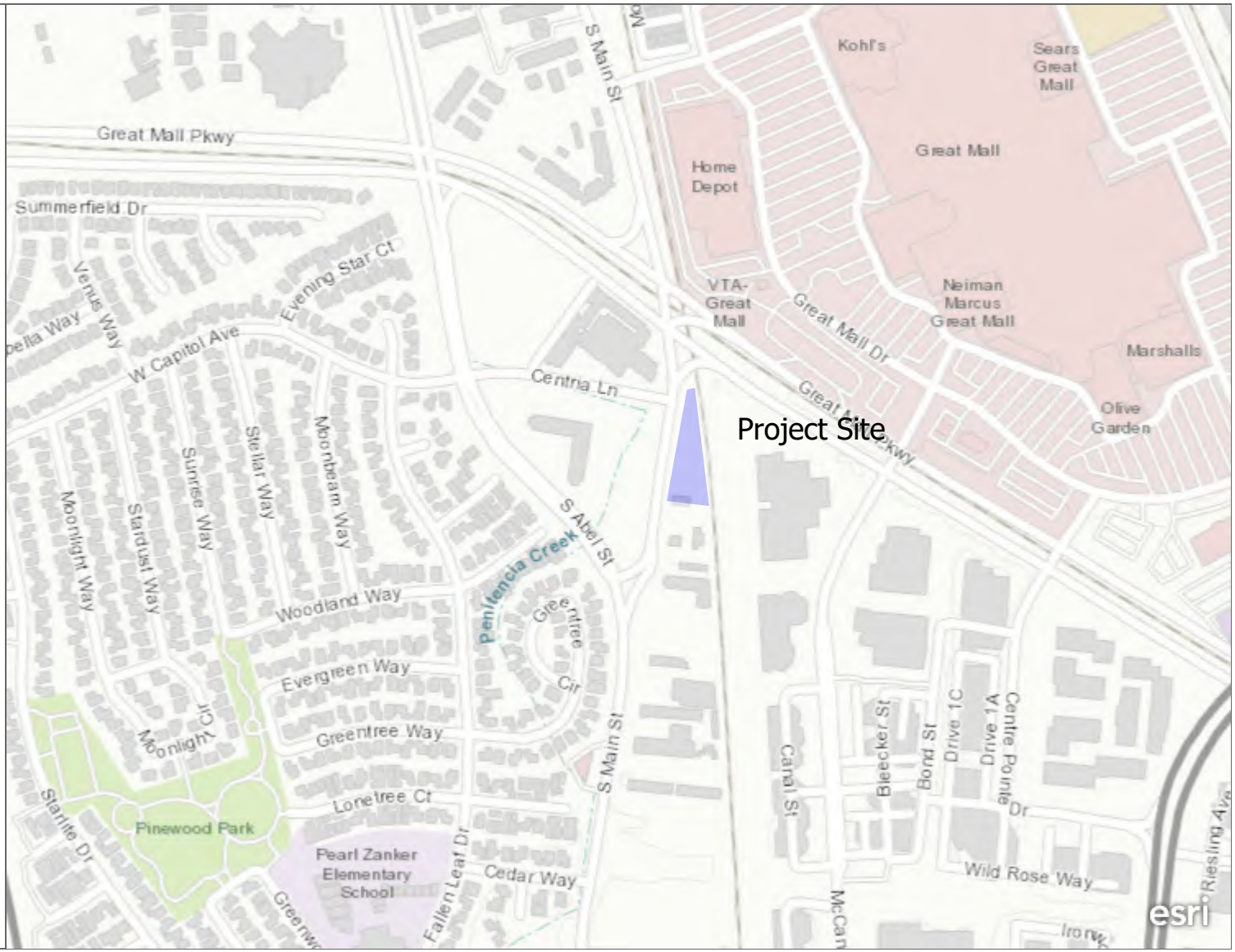
Project is not within a habitat for protected species.

Final Linear Features

Final Polygon Features

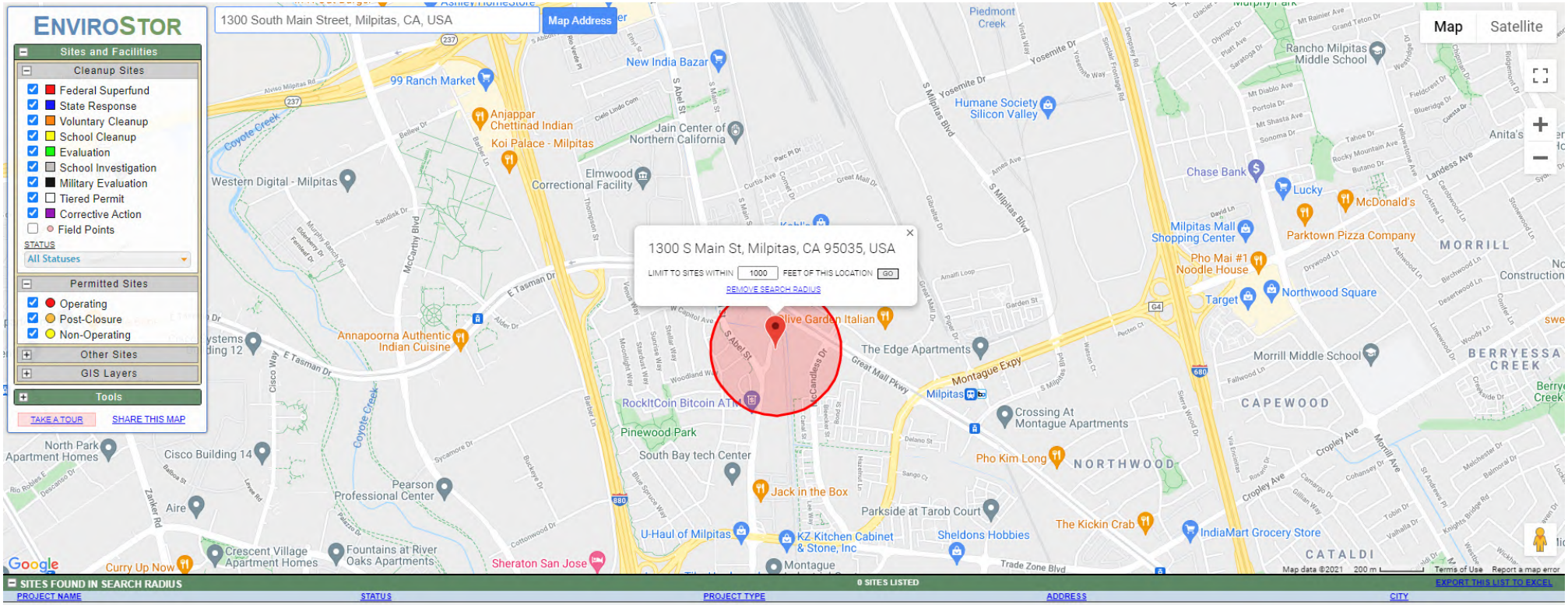
Proposed Linear Features

Proposed Polygon Features



A specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection.

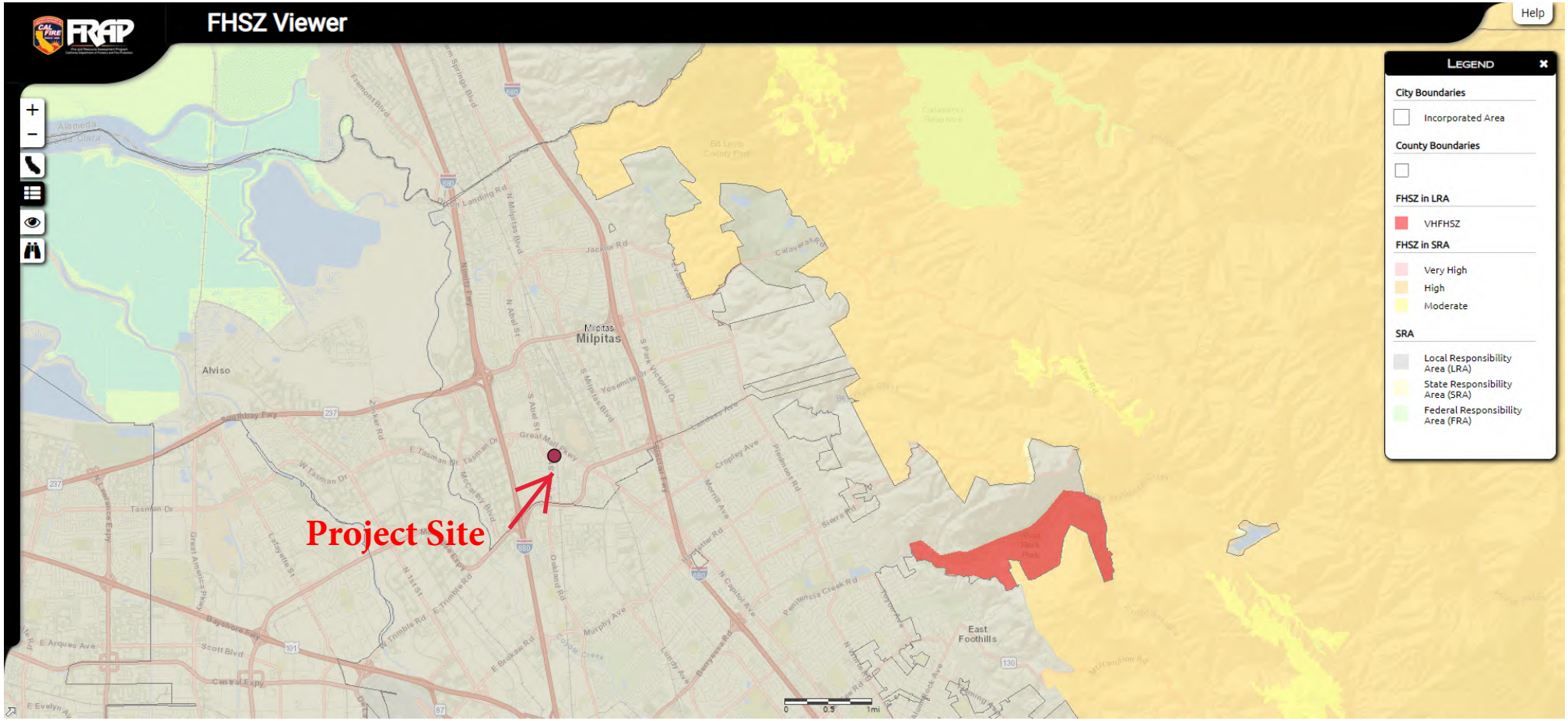
City of San Jose, County of Santa Clara, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA | U.S. Fish and Wildlife Service | The data found in this file were developed by the U.S. Fish & Wildlife Service field offices. For more information please refer to the species level metadata found with the individual shapefiles. The ECOS Joint Development Team is responsible for creating and serving this conglomerate file. No data alterations are made by ECOS.



ELIGIBILITY #9

Project is not within a hazardous waste site.

http://www.envirostor.dtsc.ca.gov/?surl=stpoz



ELIGIBILITY #9

Project is not within a very high fire hazard severity zone

https://egis.fire.ca.gov/FHSZ/

U.S. Fish and Wildlife Service
National Wetlands Inventory

National Wetlands Inventory

May 3, 2021

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

AMG & ASSOCIATES

P.O. Box 260770
Encino, California 91426
Land Planning, Finance & Development
Tel. 818-380-2600

November 23, 2021

Michael Fossati
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

Re: Request for Development Incentives
1300 South Main Street, Milpitas, CA 95035 (APN: 083-36-002)

Dear Mr. Fossati,

Pursuant to State Density Bonus Law, AMG & Associates, LLC (the "Applicant") wishes to pursue concessions from the City's development standards and receive relief from maximum controls on density.

Per Section 401(a)(3) of the HCD SB 35 Guidelines, the site must be zoned for residential use or residential mixed-use development or have a general plan designation that allows residential use or a mix of residential and nonresidential uses. To qualify for the Streamlined Ministerial Approval Process, the site's zoning designation, applicable specific plan or master plan designation, ***or*** general plan designation must permit residential or a mix of residential and nonresidential uses by right or with a use permit. With respect to General Plan consistency, as indicated in Government Code Section 65913.4(a)(5), the standards in place at the time the Notice of Intent (NOI) is submitted govern project approval. The current General Plan was adopted March 9, 2021, after the NOI for this project was submitted. Therefore, the current General Plan does not control. The prior General Plan designated for the site Multi-Family Residential, Very High within TOD Transit Area Specific Plan Area and zoned Multi-Family Very High Density Residential (R4) with TOD Overlay. While the Specific Plan land use designation may differ from these designations, residential is still permitted per the General Plan and Zoning. For further details, letter prepared by Erik Ramakrishnan of Berliner Cohen, LLP. included in our submittal package.

The project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density and the applicant shall also receive a height increase of up to three additional stories, or 33 feet. The property is within one-half mile from the VTA Greatmall Light Rail Station.

Milpitas's Zoning Code ("Zoning Code") imposes specific development standards depending on the project's location. Pursuant to State Density Bonus Law, an eligible housing development shall be entitled to four concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). Therefore, please see below details on each of our four concessions being requested, which are based on the current plan and the standards set forth in the Zoning Code:

1. Open space – This development standard is found in Section XI-10-4.05(D)(1) of the Municipal Code. This standard requires 25 percent of the site or 10,519 square feet is open space. The project will provide 8,125 square feet of open space. Increasing the open space would translate to reduction at minimum 10 units. The request for relief from this requirement equates to an actual, identifiable cost reduction because if we complied with this standard then units would be eliminated translating to an increase in land cost per unit. The difference between land cost per unit at 102 units (without the concession) and at 112 units (with the concession) is $4,552 per

unit. These numbers were calculated based on a land purchase price of $5,200,000. A concession for this development standard results in an "actual and identifiable cost reduction" for the construction of this affordable housing project.

2. Side Setback– This development standard is found in Section XI-10-12.06(E)(5) of the Municipal Code. This standard requires a setback of 12 to 20 feet. The project will provide a side yard setback of 7 feet and 6 inches. Increasing the setback would translate to reduction at minimum 20 units. The request for relief from this requirement equates to an actual, identifiable cost reduction because if we complied with this standard then units would be eliminated translating to an increase in land cost per unit. The difference between land cost per unit at 92 units (without the concession) and at 112 units (with the concession) is $9,456 per unit. These numbers were calculated based on a land purchase price of $5,200,000. A concession for this development standard results in an "actual and identifiable cost reduction" for the construction of this affordable housing project.

3. Front Setback – This development standard is found in Section XI-10-12.06(E)(5) of the Municipal Code. This standard requires a setback of 12 to 20 feet. The project will provide a side yard setback of 7 feet and 11 inches. Increasing the setback would translate to reduction at minimum 39 units. The request for relief from this requirement equates to an actual, identifiable cost reduction because if we complied with this standard then units would be eliminated translating to an increase in land cost per unit. The difference between land cost per unit at 73 units (without the concession) and at 112 units (with the concession) is $24,805 per unit. These numbers were calculated based on a land purchase price of $5,200,000. A concession for this development standard results in an "actual and identifiable cost reduction" for the construction of this affordable housing project.

4. Rear Yard – This development standard is found in Section 10.05.1020(D)(2) of the Municipal Code. This standard requires a setback of 12 to 20 feet. The project will provide a side yard setback of 6 feet. Increasing the setback would translate to reduction at minimum 30 units. The request for relief from this requirement equates to an actual, identifiable cost reduction because if we complied with this standard then units would be eliminated translating to an increase in land cost per unit. The difference between land cost per unit at 82 units (without the concession) and at 112 units (with the concession) is $16,987 per unit. These numbers were calculated based on a land purchase price of $5,200,000. A concession for this development standard results in an "actual and identifiable cost reduction" for the construction of this affordable housing project.

Granting the concessions allows the Applicant to develop the project at the allowed 112 units pursuant to the State Density Bonus Law. The Applicant may revise the concessions should they be needed during the entitlement of the project. Should you have any questions on the project, please contact me at: 818-697-4919 / kcalica@amgland.com.

Sincerely,

Kimberly Calica