



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, FEBRUARY 7, 2023

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA
7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

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.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting in person or 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_6cLgCTvJQVOCYIqzXtUJWA

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

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.

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@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

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 (7:00 PM)

PLEDGE OF ALLEGIANCE (Councilmember Barbadillo)

INVOCATION (Councilmember Lien)

PRESENTATIONS (7:05 PM)

- Black History Month

PUBLIC FORUM (7:10 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:15 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 City Council Calendar of Meetings for February 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for February 2023.

C2. Approve City Council City Council Regular Meeting Minutes of January 17, 2023, and Special Meeting Minutes of January 24, January 26, and January 31, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Regular Meeting minutes of January 17, 2023, and Special Meeting Minutes of January 24, January 26, and January 31, 2023.

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

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

C4. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)

Recommendation: Move to reconfirm findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

C5. Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Set a Public Hearing for March 7, 2023 (Staff Contact: Arthur Belton, Deputy Fire Chief/Fire Marshal, 408- 586-3384)

Recommendation: Adopt a resolution declaring weeds on specific properties to be public nuisances and set a public hearing for March 7, 2023 and find a CEQA exemption.

C6. Receive a Report on the Local Emergency Related to the Severe Weather Event on January 4-5, 2023 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)

Recommendation: Receive a report on the local emergency relating to the severe weather event on January 4-5, 2023.

PUBLIC HEARINGS (7:20 PM)

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.

7. Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of 78 townhome condominiums and 12 accessory dwelling units and associated site improvements on an approximately 4.1-acre site located in the High-Density Mixed-Use (R3-TOD) Zoning District with a Transit Oriented Development Overlay at 675 Trade zone Boulevard and 1951 Tarob Court, and find a CEQA exemption. The Project is located within the Transit Area Specific Plan (TASP) area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Recommendation: Adopt a resolution to approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006, and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval, and find a CEQA exemption.

8. Adopt a Resolution Certifying Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopting the Milpitas Metro Specific Plan (updating the 2008 Transit Area Specific Plan) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Kevin Riley, TASP (Metro) Manager, 408-586-3292)

Recommendation: Adopt a resolution to certify the Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (SEIR) and adopt the Milpitas Metro Specific Plan.

LEADERSHIP AND SUPPORT SERVICES (8:50 PM)

9. Review the List of Agenda Item Requests From Individual Councilmembers and Provide Direction to Staff, Through the Prioritization Process, on Groups 1 Items; Provide Additional Clarification to Staff, If Any, on Group 2 Items (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: (1) Review list of agenda item requests from individual Councilmembers and provide direction to staff, through the prioritization process, on which Group 1 items should be advanced; (2) Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (9:15 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. 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 whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (9:20 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: mmutalipassi@milpitas.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.milpitas.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.milpitas.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.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@milpitas.gov prior to the meeting. You may request a larger font agenda.

January 2023						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Milpitas City Council Calendar

February 2023

March						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Item # C1.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara) 5:30 PM -Veterans Commission (CM) 7:00 PM -Community Advisory Commission (AP)	2 9:00 AM -City Council Special Meeting 5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM)	3	4
5	6 7:00 PM -Parks, Recreation & Cultural Resources Commission (HL)	7 7:00 PM -City Council	8 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino) 7:00 PM -Planning Commission	9 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 5:30 PM -Cities Association City Selection Committee Special Mtg (CM) {Los Altos Community Center} 7:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM) {Los Altos Community Center}	10	11
12	13 4:30 PM -Economic Development and Trade Commission (CM) 6:00 PM -Gateway/Main St. Specific Plan Community Workshop (Virtual)	14 4:00 PM -HOPE Task Force	15 TENT: 6:00 PM -In-Person Community Outreach: FY2023-24 Budget 6:00 PM -Energy and Environmental Sustainability Commission (EC)	16	17	18
19	20 PRESIDENT'S DAY  CITY HALL CLOSED	21 6:00 PM -Closed Session 7:00 PM -City Council	22 7:00 PM -Planning Commission	23 1:30 PM -Santa Clara County Emergency Operational Area Council Meeting (CM) (San Jose)	24	25
26	27 7:00 PM -Science, Technology & Innovation Commission (GB)	28 1:30 PM -Senior Advisory Commission (AP) 5:30 PM - Special City Council Meeting : CIP Study Session (Senior Center, Room 140/141)				



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, JANUARY 17, 2023

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened in a Regular Meeting of the Milpitas City Council on January 17, 2023, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/ Zoom webinar.

MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

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

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, and Lien, and Phan (6:02 PM).
ABSENT: None.

City Attorney Mutalipassi announced the closed session items.

The City Council adjourned to Closed Session at 6:03 PM.

ADJOURN TO CLOSED SESSION

(a) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(d)(1)

City as Defendant

Anil Kumar Bhatnagar v. City of Milpitas, et al. Santa Clara Superior Court case no. 20CV369408

(b) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(d)(1)

City as Plaintiff

County Sanitation District 2-3, et al. v. The City of San Jose, et al. Santa Clara Superior Court case no. 18CV325480

(c) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(d)(1)

City as Defendant

Gene Smith v. City of Milpitas, WCAB nos. ADJ9910212, ADJ10230698, ADJ10230699, and ADJ12410959

The City Council reconvened in regular session at 7:15 PM

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi reported out the following actions regarding Item (c) on the Closed Session:

- *Gene Smith v. City of Milpitas*, WCAB case number ADJ9910212, unanimous approval of settlement in the amount of \$40,000.00.
- *Gene Smith v. City of Milpitas*, WCAB case number ADJ10230698, unanimous approval of settlement in the amount of \$50,000.00 plus \$19,720.00 in attorney fees.

- *Gene Smith v. City of Milpitas*, WCAB case number ADJ10230699, unanimous approval of settlement in the amount of \$10,847.75 plus \$6,561.25 in attorney fees.
- *Gene Smith v. City of Milpitas*, WCAB case number ADJ12410959, unanimous approval of settlement in the amount of \$50,000.00 plus \$2,218.75 in attorney fees.

PLEDGE OF ALLEGIANCE

Councilmember Lien led the Pledge of Allegiance.

INVOCATION

Vice Mayor Chua presented the invocation.

PRESENTATIONS

Mayor Montano, joined by the City Council, presented a proclamation in recognition of Martin Luther King, Jr. Day. The proclamation was accepted by Tom Patterson, Vice President of the Social Equity Initiative.

PUBLIC FORUM

There were the following public speakers:

1. Rob Means
2. Inderjit Mundra
3. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi 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 Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. Mayor Montano reported out that she received a campaign donation of \$250.00 from SCCAOR. There were no other reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Councilmember Lien read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 17, 2023 Regular Meeting Agenda.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

CONSENT CALENDAR

Motion: to approve the consent calendar, pulling Item C9.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

C1. Receive City Council Calendar of Meetings for January and February 2023

Received City Council Calendar of Meetings for January and February 2023.

C2. Approve City Council City Council Special Meeting Minutes of January 10, 2022

Approved City Council Special Meeting minutes of January 10, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting

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

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

C5. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies

Reconfirmed findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

C6. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for Parkside – Tarob Court Project, Phase 1 Residential Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-Year Warranty Period

Adopted **Resolution No. 9211** granting acceptance of the completed public improvements for the Parkside – Tarob Court Project, Phase 1 Residential Project as shown on Public Improvement Plans No. 2-1234; and approve a reduction in the faithful performance bond to \$35,900.00, which is 10% of the security's original value which shall be in effect for the duration of the warranty period; and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the Engineering Director/City Engineer and find a CEQA exemption.

C7. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the Finch Hollow Residential Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period

Adopted **Resolution No. 9212** granting acceptance of the completed public improvements for the Finch Hollow Residential Project as shown on Public Improvement Plans No. 2-1336; and approve a reduction in the faithful performance bond to \$122,000.00, which is 10% of the security's original value which shall be in effect for the duration of the warranty period; grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided that all required warranty work is completed to the satisfaction of the Engineering Director/City Engineer; and find a CEQA exemption.

C8. Waive the Second Reading and Adopt Ordinance No. 38.852 Amending Section 13 of Chapter 10, Title XI of the Milpitas Municipal Code Relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) for consistency with recent changes to state ADU law (Assembly Bill 2221 and Senate Bill 897)

Waived the second reading and adopted **Ordinance No. 38.852** amending Section 13 of Chapter 10, Title XI of the Milpitas Municipal Code Relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) for consistency with recent changes to state ADU law (Assembly Bill 2221 and Senate Bill 897), and found a CEQA exemption.

C9. Approve and Authorize the City Manager to Execute a Professional Services Agreement with Lisa Wise Consulting, Inc. for Comprehensive Zoning Ordinance Update Services for the Not-to-Exceed Amount of \$879,515.00

Pulled from Consent Calendar.

C10. Consider Kiwanis Club of Milpitas Fee Waiver Request

Approved a Fee Waiver of \$900.00 for the Kiwanis Club of Milpitas Foundation's 19th Annual MUSD Crab Feed and Auction Event scheduled for February 3, 2023.

C11. Authorize and Approve Travel to Carlsbad, CA for City Manager Steve McHarris to Attend the Annual League of California Cities City Managers Conference to be held on February 8 – 10, 2023

Authorized and approved travel to Carlsbad, CA for City Manager Steve McHarris to attend the Annual League of California Cities City Managers Conference scheduled on February 8 – 10, 2023 for an estimated not-to-exceed amount of \$1,700.00 budgeted under Conferences/Trainings allocation for the City Manager's Office.

PUBLIC HEARINGS

12. Conduct a Public Hearing and Adopt Ordinance No. 65.153 Adopting by Reference the 2022 California Energy Code; and Adopt Ordinance No. 65.154 Adopting by Reference the 2022 California Green Building Standards Code with Amendments

Building Official Tott presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Linda Hutchins-Knowles
2. Patti Sexton
3. Voltaire Montemayor
4. Esther Duong read into the record by Linda Hutchins-Knowles
5. Jared Johnson
6. Jenny Green
7. Robert Whitehair
8. Satvika Ayer
9. Sean Armstrong
10. Julia Zeitlin
11. Allysson McDonald
12. Moria Merriweather
13. Hoai-An Truong
14. Birgitte Rasine
15. Enrique Navarro
16. Felix Mbuga
17. Lilian Koenig
18. Dashiell Leeds

19. Rob Means
20. Mel Vieira

Mayor Montano closed the public hearing.

Building Official Tott, Deputy Director of Public Works Marshall, Farhad Farahmand from TRC Companies, PG&E Local Government Affairs Representative Christina Ramos, PG&E Codes & Standards Program Manager Kelly Cunningham, and Silicon Valley Clean Energy Deputy Director of Decarbonization Programs and Policy Zoe Elizabeth responded to questions from the City Council.

Vice Mayor Chua made a motion: to waive the second reading, find a CEQA exemption, and adopt **Ordinance No. 65.153** amending Chapter 11 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Energy Code.

City Attorney Mutalipassi read the title of the ordinance.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: none.

Vice Mayor Chua made a motion: to waive the second reading, find a CEQA exemption, and adopt **Ordinance No. 65.154** amending Chapter 19 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Green Building Standards Code with amendments recommended by staff.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

City Attorney Mutalipassi read the title of the ordinance.

Councilmember Phan asked to make a friendly amendment to strike out Section 4.106.5.1 specifically pertaining to residential alteration projects. Vice Mayor Chua did not accept the amendment.

Councilmember Phan followed up by making a substitute motion: to waive the second reading, find a CEQA exemption, and adopt **Ordinance No. 65.154** amending Chapter 19 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Green Building Standards Code with amendments recommended by staff and to strike out parts of Section 4.106.5.1 reading:

- “Alterations that include replacement or addition of over 50 percent of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or where over 50 percent of the existing framing above the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric building’s requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.”

AND

- Exception No 1 “Multifamily residential building projects that have approved entitlements before the effective date of this ordinance may install fuel gas for water heating systems serving multiple dwelling units. The applicant shall comply with Section 4.106.5.2.”

Councilmember Barbadillo seconded the motion.

Substitute Motion/Second: Councilmember Phan / Councilmember Barbadillo
 Upon a call for the question, the substitute motion carried by the following vote:
 AYES: Councilmembers Barbadillo, Lien, Phan
 NOES: Chua, Montano

LEADERSHIP AND SUPPORT SERVICES

13. Receive Report on 2023 Citywide Community Engagement Survey

Public Information Officer Angelo introduced the item and FM3 Representative Curt Below presented the report.

There were the following public speakers:

1. Voltaire Montemayor

Councilmember Lien suggested staff and the City Manager look into assisting new businesses with license and permits.

The City Council received the report on results of the 2023 Citywide Community Engagement Survey.

14. Adopt a Resolution Appointing Glen Campi as Extra Help Public Works Manager

Interim Human Resources Director Brown presented the report.

There were the following public speakers:

1. Voltaire Montemayor

Public Works Director Di Renzo and Deputy Public Works Director Marshall responded to questions from the City Council.

After discussion, motion: to adopt **Resolution No. 9213** appointing Glen Campi as Extra Help Public Works Manager in accordance with California Government Code Sections 7522.56 and 21224 and approve and authorize the City Manager to execute an employment agreement with Glen Campi.

Motion/Second: Mayor Montano / Vice Mayor Chua

Motion carried by the following:

AYES: Councilmembers, Lien, Phan, Vice Mayor Chua, Mayor Montano
 NOES: Barbadillo

ITEMS PULLED FROM CONSENT CALENDAR

C9. Approve and Authorize the City Manager to Execute a Professional Services Agreement with Lisa Wise Consulting, Inc. for Comprehensive Zoning Ordinance Update Services for the Not-to-Exceed Amount of \$879,515.00

Planning Director Thomas responded to questions from the City Council.

The City Council recessed at 10:51 pm. The City Council reconvened at 11:16 pm

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to approve and authorize the City Manager to execute a Professional Services Agreement with Lisa Wise Consulting, Inc., for Comprehensive Zoning Update Services for the not-to-exceed amount of \$879,515.00 and find a CEQA exemption.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, Montano

NOES: None.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Councilmember Lien announced that Lunar New Year occurs on Sunday and offered New Year's wishes.

ADJOURNMENT

Mayor Montano adjourned the meeting at 11:19 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

Item # C2.

MINUTES TUESDAY, JANUARY 24, 2023 CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council on January 24, 2023, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/ Zoom webinar.

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

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

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, and Lien, and Phan.

ABSENT: None.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

PRESENTATIONS

Mayor Montano, joined by the Milpitas City Council, issued proclamations recognizing Tet / Vietnamese Lunar New Year and the Chinese Lunar New Year.

PUBLIC FORUM

There were the following public speakers:

1. Allysson McDonald

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi 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 Mutalipassi stated there no items on the agenda that would require a disclosure of campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 24, 2023 Regular Meeting Agenda

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

AGENDA ITEMS

1. Adopt the Milpitas Housing Element Update – 6th Cycle (2023-2031), General Plan Resolution, and Addendum to the Milpitas General Plan Update Environmental Impact Report

(1) Conducted a public hearing and adopted **Resolution No. 9214** pertaining to the 6th Cycle draft Housing Element; (2) Approved an Addendum to the Milpitas 2040 General Plan Environmental Impact Report (SCH#: 2020070348); (3) Adopted General Plan Amendment GP23-0001 to update the Housing Element for the 6th Cycle period of 2023-2031; and (4) Adopted the 6th Cycle Draft Milpitas General Plan Housing Element Update (2023-2031) as substantially compliant by state law, and authorized the City Manager, or designee, to respond to California Department of Housing and Community Development (HDC) findings letter dated January 10, 2023, and submit to HCD for compliance and certification on or before January 31, 2023.

Assistant City Manager Kantak introduced the item. Economic Development Director Andrade presented the report joined by Housing Authority Administrator Musallam, Senior Special Projects Associate Hom, and Raimi & Associates Consultants Eric Yurkovich and Antara Tandon.

Mayor Montano opened the public hearing.

There were the following speakers:

1. Allysson McDonald
2. Jaime Vasquez

Mayor Montano closed the public hearing.

Vice Mayor Chua asked to add a clause to Program 22 – Supportive Housing to include language to state the item is dependent upon issues being resolved at 1000 Hillview. She asked for Program 4 to reflect that City already has implemented a streamlined permitting process related to ADUs, but that it can be improved by revisiting the ARPA funding for ADU incentives.

Councilmember Phan asked about the letters other cities have received from HCD regarding their housing elements, and if Milpitas had received any similar letters. Senior Special Projects Associate Hom replied that HCD had been cooperative with the city, meeting with representatives several times prior to the deadline letter. Councilmember Phan asked to see an analysis in the future of what Milpitas included in their Housing Element and how that correlates to the housing numbers when it is later reviewed.

Vice Mayor Chua requested language be added to Program 11 regarding a plan or strategy to notify Sunnyhills residents of vacancies in Terrace Gardens.

Mayor Montano voiced support for including a navigation center to assist the unhoused. She also spoke on increasing the BMR from 15% below market to 20% below market. She advised on the importance of maintaining a balance between residential and commercial properties.

Vice Mayor Chua made a motion: to adopt **Resolution No. 9214** pertaining to the 6th Cycle draft Housing Element; approve an Addendum to the Milpitas 2040 General Plan Environmental Impact Report (SCH#: 2020070348); adopt General Plan Amendment GP23-0001 to update the Housing Element for the 6th Cycle period of 2023-2031; and adopt the 6th Cycle Draft Milpitas General Plan Housing Element Update (2023-2031) as substantially compliant by state law, and authorized the City Manager, or designee, to respond to California Department of Housing and Community Development (HDC) findings letter dated January 10, 2023, and submit to HCD for compliance and certification on or before January 31, 2023, with recommendations to add a clause to Program 22 – Supportive Housing to include language to state the item is dependent upon issues being resolved at 1000 Hillview. She

asked for Program 4 to reflect that City already has implemented a streamlined permitting process related to ADUs, but that it can be improved by revisiting the ARPA funding for ADU incentives. Vice Mayor Chua requested language be added to Program 11 regarding a plan or strategy to notify Sunnyhills residents of vacancies in Terrace Gardens.

City Attorney Mutalipassi restated the motion with updates to the Housing Element as stated by Vice Mayor Chua

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: none.

ANNOUNCEMENTS

Councilmember Lien called for the Council to have a moment of silence in honor of the victims of the Monterey Park and Half Moon Bay shootings. Mayor Montano invited Councilmember Lien to lead the moment of silence for the adjournment.

Mayor Montano asked what occurred with the car wash. City Manager McHarris responded that the city was not aware of a permit application having been received for a car wash.

Councilmember Barbadillo asked for a report of crime statistics related to car break-ins in the city. Mayor Montano noted that the Police Department provides updates on crime statistics every three months.

ADJOURNMENT

Mayor Montano adjourned the meeting at 7:17 PM and Councilmember Lien led a moment of silence for the victims of the Monterey Park and Half Moon Bay shootings.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

Item # C2.

MINUTES

THURSDAY, JANUARY 26, 2023

**SONESTA SAN JOSE – MILPITAS HOTEL, 2ND FLOOR, KORBELL ROOM
777 BELLEW DRIVE, MILPITAS, CA**

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council on January 26, 2023, in the Korbell Room at Sonesta San Jose-Milpitas Hotel, 2nd Floor, 777 Bellew Drive, Milpitas, CA.

WELCOME AND CALL TO ORDER

Mayor Montano called the Special City Council meeting to order at 9:00 AM.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo (9:05 AM), and Lien, and Phan (9:15 AM).

ABSENT: None.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

PUBLIC FORUM

There were no public speakers.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the Code of Conduct.

RETREAT

Councilmembers met together with the staff and consultant to discuss working relationships, meeting management and City Council goals.

ADJOURNMENT

Mayor Montano adjourned the meeting at 1:44 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

Item # C2.

MINUTES

TUESDAY, JANUARY 31, 2023

BARBARA LEE SENIOR CENTER, 40 N MILPITAS BOULEVARD, ROOM 140/141, MILPITAS, CA

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council on January 31, 2023, in the Barbara Lee Senior Center, 40 N. Milpitas Blvd, Milpitas, and via teleconference/ Zoom webinar.

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

Mayor Montano called the Special City Council meeting to order at 5:31 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, and Lien, and Phan.

ABSENT: None.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

PUBLIC FORUM

There were no public speakers.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi 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 Mutalipassi stated there no items on the agenda that would require a disclosure of campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 31, 2023 Special Meeting Agenda

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following vote:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

AGENDA ITEMS

1. **Receive a Staff Presentation on the Preliminary FY 2024-33 Ten-Year General Fund Financial Forecast and Request Feedback on Prioritization of Council Referrals and Desired Service Levels to Inform the FY 2023-24 Budget Development**

The City Council received a staff presentation on the Preliminary FY 2024-33 Ten-Year General Fund Financial Forecast and provide feedback on prioritization of Council referrals and desired service levels to inform the FY 2023-24 Budget development.

City Manager McHarris provided opening remarks. Assistant City Manager Kantak and Finance Director Lai presented the report and responded to questions from Council joined by City department heads.

Councilmember Lien thanked staff for the presentation and asked for the status of the ADUs permitted by the City including if they are for rent or sale, low income, very low income. Assistant City Manager Kantak noted that there are no deed restrictions associated with ADUs. Councilmember Lien asked for additional details regarding the Emergency Operations Plan. Fire Chief Stelling spoke on the process of updating the Annexes to the plan. Assistant City Manager Kantak offered to send information on the Plan.

Mayor Montano asked for clarification on the definition of business engagements as referred to in the FY 22-23 Key Accomplishments. Economic Development Director Andrade noted that the metric is a combination of factors and that engagements with businesses or development teams don't always result in a permit. Mayor Montano spoke on the unhoused and suggested writing a letter to the County to address the unmet needs of unhoused Milpitas residents. She asked for future Milpitas SMART fleet cars to be electric. Regarding Traffic Safety, the Mayor asked to monitor the traffic exiting I-680 to see if the City could qualify for federal grants.

Finance Director Lai continued with the presentation.

Mayor Montano emphasized the importance of the City having a plan in place to address the ¼ cent tax that will expire. Finance Director Lai said that 2028 was the last year the City could take a replacement measure to the voters to continue the tax.

Councilmember Barbadillo questioned if property tax and sales tax being the top two revenue generators are standard for cities. Finance Director Lai responded that it varies. He also asked about the revenue and cost savings related to measures taken during the pandemic to make up for lost revenue. Assistant City Manager Kantak responded that staff would send him additional information about this. Councilmember Barbadillo asked what would be an ideal revenue source. Finance Director Lai indicated it's important to have a diversity of sources and to look at the economic diversity of the community. The Councilmember questioned the percentage of budget going to personnel and asked how much of it was for the community. Assistant City Manager Kantak replied that over three quarters of the budget is for personnel but emphasized that the funding for all City staff is to enable them to provide services to the community. Councilmember Barbadillo continued that he wanted to know how much goes to salaries and benefits and how much is personnel in the department budget allocations. Assistant City Manager Kantak noted that the budget book provides a breakdown of budget allocations.

Assistant City Manager Kantak continued with the presentation.

Council recessed for a break at 7:50 pm. The Council reconvened at 8:00 pm.

There were the following public speakers:

1. Sonia Medina-Ashby

Council Referrals

Item No. 1 City Hall Address on building facade

Mayor Montano requested this be removed due to cost.

Item No. 2 Solar Panels at City Facilities

Vice Mayor Chua asked to put the item aside but asked for staff to look into ways to fund the feasibility study. She emphasized that she didn't want to use General Fund dollars for the project. Assistant City Manager Kantak responded that staff would research grants to continue the project. The project will be deferred until the City can identify and acquire the funds to move forward.

Item No. 3 SPAR Fund

Councilmember Phan emphasized the importance of a SPAR fund due to looming budget restraints. Councilmember Lien and Mayor Montano both voiced their support for a SPAR fund. Mayor Montano moved to bring the item forward in the budget.

Motion/Second: Mayor Montano / Councilmember Barbadillo

Vote: 5-0

Item No. 4 Lease for Vacant Land near library

Mayor Montano noted that City should be focused on buying land rather than leasing. After discussion, Council directed staff to revise the item from Purchase or Lease. City Manager McHarris asked if the Council wanted for the land to be purchased without encumbrance. Mayor Montano agreed that the property should be owned by the City with no strings attached. Councilmember Phan suggested it might be time to move on and not waste additional time pursuing the project. Councilmember Barbadillo and Mayor Montano agreed.

Item No. 5 Youth Skateboarder Plaque at Skate Park

Mayor Montano spoke in support of the item. Vice Mayor Chua moved to bring the item forward in the budget.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Vote: 5-0

Item No. 6 Vision Zero Action Plan

Vice Mayor Chua voiced concerns with the cost and ongoing maintenance. She noted feedback that existing City programs/policies are already filling this role. The Vice Mayor did not support the program moving forward. Councilmember Lien agreed.

Item No. 7 Saturday Senior Center Hours

Vice Mayor Chua spoke in support of the item and moved to bring the item forward in the budget.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Vote: 5-0

Item No. 8 Crossing Guards Program

Police Chief Hernandez provided additional background information on the Milpitas Crossing Guards Program. Vice Mayor Chua questioned if the benefits the contract company provides are comparable to the ones provided by the City. Police Chief Hernandez clarified that there would be no loss of compensation in transitioning to the contract service.

Vice Mayor Chua suggested the contract include terms that the City crossing guards should not be in the roaming guards. Police Chief Hernandez noted that roaming guards were already discussed with the company, it is the employee's choice to become a roving guard. Vice Mayor Chua proposed crossing guard salaries be raised as an incentive.

Councilmember Barbadillo asked how many locations are we currently staffing and voiced support for Option B. Councilmember Lien agreed that Option B makes sense.

Mayor Montano voiced concerns with outsourcing the crossing guards, citing that it's not about pay and that crossing guards are proud to be part of the Police Department. She noted her preference for Option A and suggesting giving the crossing guards a larger raise to attract more people to the program.

Vice Mayor Chua indicated concerns with recruitment. She voiced support for Option B with the caveat that the Police Chief make sure crossing guards are still in touch with the Police Department.

Councilmember Phan made a motion to move forward with Option B. Vice Mayor Chua seconded the motion, but asked for a friendly amendment to raise the hourly rate to \$25 with the same compensation structure the city has now. Councilmember Phan did not accept the amendment. Vice Mayor Chua withdrew the second. Councilmember Barbadillo seconded the motion.

Vice Mayor Chua made an alternative motion to move forward with Option B with the addendum of increasing the hourly rate of current crossing guards to a competitive rate. There was no second. The alternative motion failed.

Motion: Councilmember Phan / Councilmember Barbadillo
Vote: 3-2 (Noes: Vice Mayor Chua, Mayor Montano)

City Attorney Mutalipassi noted that the Police Chief needed feedback on the number of sites. Councilmember Phan supported the option for 36 guards at 34 sites.

Item No. 9 Establish Funding source for Urgent Items Identified through Prioritization Process
Vice Mayor Chua withdrew the item.

Assistant City Manager Kantak asked if there were any additional items that Council would want to consider:

- Vice Mayor Chua asked to consider the following items:
 - o Explore community feedback on which parks are suitable for permanent pickleball locations.
 - o Explore public safety enhancement to ALPR (Automated License Plate Readers).
 - o Ensure staffing relating to the program supported by the \$3 million from Ro Khanna
- Councilmember Barbadillo asked to explore a senior discount ordinance.
- Mayor Montano asked to bring back all items that had previously dropped from consideration including the consulate office and EDC Corporation. She also asked to consider the following items:
 - o The City negotiate with the church next door to Alviso Adobe for improved parking.
 - o Adding a phone number for the City Clerk's office on the first floor of City Hall so constituents don't have to speak with the cashier.
 - o Infrastructure for Beautify Milpitas for roads and maintenance of parks.
 - o Main Street Revitalization infrastructure to underground utilities to put lights on trees.
 - o Police Substation in the southern part of Milpitas.
 - o Navigation Center for the unhoused.
 - o Prioritize Selwyn Park.
 - o Create a public safety task force to brainstorm methods to keep the public safe.
- Councilmember Phan asked to consider:
 - o Continue building a positive reputation for future employees to work here by providing a housing platform for employees to live in this city and explore workforce housing opportunities for prospective and existing employees.
 - o Explore public banking in the form of a credit union that City employees can utilize.
 - o As a perk of working in Milpitas, transit passes for employees that commute.
- Councilmember Lien asked for Council to consider:
 - o Contacting the library and place Narcan in the library.

ANNOUNCEMENTS

Vice Mayor Chua thanked staff for the meeting.

ADJOURNMENT

Mayor Montano adjourned the meeting at 9:30 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

Item # C3.

as of 1/31/2023

February 21, 2023 – Regular Meeting

CLOSED SESSION

INVOCATION (Councilmember Lien)

PRESENTATION

CONSENT CALENDAR

1. Receive City Council calendar for February 2023 (City Clerk)
2. Approve City Council Meeting minutes of January 17, 2023 (City Clerk)
3. Preview list of items for February 21, 2023 (City Clerk)
4. Councilmember Request List (City Clerk)
5. Appointments to Commissions (City Clerk)
6. Resolution Accepting Alviso Adobe Renovation (Engineering)
7. Crown Castle Fiber LLC License Agreement for Installation of Small Cell Facilities on Municipal Facilities (Engineering)
8. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the Lantana Apartments Residential Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-year warranty period (Engineering)
9. 531 Vista Ridge Side Development Permit (Planning)

PUBLIC HEARING

10. Intro and First Reading – Tobacco Retail Permit Ordinance (Planning)

PUBLIC SAFETY

11. Receive a presentation for AB 481 (Police)

LEADERSHIP

12. FY23 Mid-Year Budget Amendment (Finance)
13. ARPA Quarterly Report

REPORTS



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	2/7/2023
	<u>Recommendation:</u> Move to reconfirm findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

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 May 17, 2022, the City Council adopted Resolution No. 9156, 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. 9156 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. 9156 so that the City Council and all other subordinate legislative bodies may continue to meet virtually.

Lastly, it is important to note that AB 361 is optional. If the City Council wishes, it may meet in person. In addition, hybrid meetings are permissible.

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 of the City Council and Legislative Bodies.

Attachment

1. Resolution 9165

RESOLUTION 9165

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 7th day of June 2022, by the following vote:

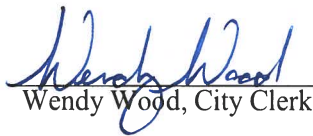
AYES: (5) Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan

NOES: (0) None

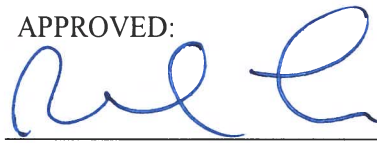
ABSENT: (0) None

ABSTAIN: (0) None

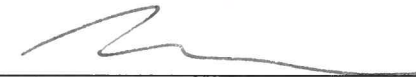
ATTEST:


Wendy Wood, City Clerk

APPROVED:


Rich Tran, Mayor

APPROVED AS TO FORM:


Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Set a Public Hearing for March 7, 2023 (Staff Contact: Arthur Belton, Deputy Chief/Fire Marshal, 408- 586-3384)
Category:	Consent Calendar-Public Safety
Meeting Date:	2/7/2023
	<u>Recommendation:</u> Adopt a resolution declaring weeds on specific properties to be public nuisances and set a public hearing for March 7, 2023 and find a CEQA exemption.

BACKGROUND:

On February 2, 1976, an Agreement was established and approved to abate weeds by the County of Santa Clara for the City of Milpitas. On June 21, 2022, City Council approved an amended and restated agreement, authorizing the City Manager to execute and sign the updated agreement. The purpose of the Agreement is to promote the efficiency and economy of operations in the abatement of weeds by the City and the County. The major procedural functions to be performed by the County and / or City shall include but not limited to: The County shall prepare the list of parcels requiring abatement of weeds in the City and transmit the said list to the City for review and approval for processing. The County shall prepare the notice of weed abatement and cause such notice to be mailed to the owners of the parcels requiring weed abatement. The City Council shall conduct public hearings on the proposed removal of weeds pursuant to the provisions of the City Ordinance when the City Fire Marshal presents such appropriate resolutions for adoption. The City Council may by resolution declare the weeds on the respective parcels of the land as nuisance, and make the determination to proceed with the abatement of weeds, and authorize the performance of the service to remove the weeds in accordance with the aforementioned Agreement. Upon proper authorization by the City, the County shall remove the weeds on the designated properties. The County shall render to the City an itemized assessment report for the cost of the weed abatement services performed per the respective parcels. The City Council, after a public hearing, shall require the County Assessor's Office to include the costs of the weed abatement services performed for the City for the current year, as a special assessment on bills for taxes levied against the affected parcels. Such special assessments shall be liens on the respective properties. Pursuant to California Health and Safety Code 14915, a copy of the report, as confirmed, shall be turned over to the auditor of the county, on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the assessments against the respective parcels of land as they appear on the current assessment roll, (Amended by Stats. 1939, Ch. 354).

ANALYSIS:

The County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program has notified the City of Milpitas that it is commencing its Hazardous Vegetation Abatement (weed abatement) Program for the 2022 season. In order for the County to proceed with its annual abatement process, the City must adopt a resolution declaring weeds to be a public nuisance and to schedule a public hearing to hear objections to the proposed destruction and/or removal of weeds. The Milpitas City Council public hearing is scheduled for March 7, 2023.

POLICY ALTERNATIVE(S):

Alternative 1: Not pass a resolution

Pros: None

Cons: This would reverse a long-standing agreement with Santa Clara County to provide weed abatement service within the City of Milpitas.

Reason for Not Recommending: Without a resolution, property owners will not be notified and weed abatement will not be conducted. Weeds covered under this program, classified as “light flashy fuels” are prone to easy ignition and contribute significantly to rapid fire growth. Left unmitigated, these weeds pose a significant public safety issue in terms of fire potential.

FISCAL IMPACT:

At the first City Council meeting in August of each year during a public hearing, the City’s municipal code provides that the City Council hear the assessment report for the list of weeds abated within the City, together with any objections of the property owners liable to be assessed, and to make such modifications on the proposed assessment as it deems necessary. Following adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes.

California Environmental Quality Act (CEQA):

The action being considered 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).

RECOMMENDATION:

Adopt a Resolution declaring weeds on specific properties to be public nuisances and setting the public hearing date on March 7, 2023.

Attachment(s):

Resolution with attached Exhibit A - 2023 Weed Abatement Program Commencement Report (list of parcels) for the City of Milpitas

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DECLARING
CERTAIN PROPERTIES TO CONSTITUTE A PUBLIC NUISANCE DUE TO THE OVERGROWTH OF
WEEDS AND/OR ACCUMULATION OF RUBBISH, REFUSE OR DIRT AND FIXING THE TIME AND
PLACE FOR OBJECTIONS TO ABATEMENT**

WHEREAS, the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program has compiled its annual list of properties which constitute a public nuisance due to an overgrowth of weeds and/or the accumulation of rubbish, refuse or dirt; and

WHEREAS, it is requested that the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program will individually notify the owners of those properties of its intent to abate said public nuisance and assess the cost as a special assessment against said properties if the owners do not abate the nuisance themselves; and

WHEREAS, the purpose of this Resolution is to fix a time and place where the said property owners can object to the proposed abatement.

NOW, THEREFORE, the City Council 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 declares that the properties listed on the annual list of properties, attached hereto as **Exhibit A**, constitute a public nuisance due to an overgrowth of weeds and/or the accumulation of rubbish, refuse or dirt.
3. March 7, 2023 at 7:00 p.m., in the Council Chambers at City Hall, Milpitas, California, shall be the time and place set aside for all owners of property listed on Exhibit A or any other person having any objections to the proposed removal of the weeds, rubbish, refuse and dirt to voice any objections they may have to the proposed nuisance abatement by the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program.
4. The City Clerk is hereby authorized to cause notice of this Resolution be given to the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program.
5. The City Council requests that the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program notify the owners of those properties included on Exhibit A in accordance with Milpitas Municipal Code, Title V, Chapter 202, of its intent to abate said nuisance and assess the cost as a special assessment against said properties unless such weeds, rubbish, refuse or dirt are removed by the owner.

PASSED AND ADOPTED this 7th day of February 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Suzanne Guzzetta, City Clerk

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

APPROVED:

Carmen Montano, Mayor

**2023 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MILPITAS**

Exhibit A

	Situs			APN	
1	634	N	ABEL	ST	022-06-010
2	7280		MARYLINN	DR	022-07-007
3	549		ABEL	ST	022-09-028
4	99	S	MAIN	ST	022-24-017
5	111		MAIN	ST	022-24-040
6	1735		CALIFORNIA	CL	022-37-002
7	1301		CALIFORNIA	CL	022-38-002
8	81		DIXON	RD	026-05-021
9			DIXON	RD	026-05-023
10	1878 A	N	MILPITAS	BL	026-05-024
11	51		DIXON	RD	026-05-053
12	0		(PARKING LOT)		026-06-012
13	1720		ARIZONA	AV	026-07-016
14	1750		ARIZONA	AV	026-07-044
15	1840		ARIZONA	AV	026-07-051
16	0		BOTHELO	LN	028-23-017
17	0				028-24-006
18	1301		CALLE		029-05-012
19	880		EVANS	RD	029-06-003
20	666		EVANS	RD	029-06-008
21	860		EVANS	RD	029-06-016
22	826		CALAVERAS	DR	029-06-031
23	898		CALAVERAS	DR	029-06-038
24	322		PARK	DR	029-16-006
25	1220		COUNTRY	DR	029-52-014
26	1039		CAMARILLO	CT	029-52-015
27	673		QUINCE	LN	029-59-014
28	517		VISTA RIDGE	DR	042-30-009
29	519		VISTA RIDGE	DR	042-30-010
30	529		VISTA RIDGE	DR	042-30-015
31	410		VISTA RIDGE	DR	042-30-024

32	350	VISTA RIDGE	DR	042-30-025
33	531	VISTA RIDGE	DR	042-30-029
34		MAIN	ST	083-07-015
35	540	ABEL	ST	083-13-013
36	91	W MONTAGUE	EX	083-42-002
37	526	MAIN	ST	086-25-011
38	0			086-25-018
39		S MAIN	ST	086-25-028
40		NO SITUS		086-25-030
41	808	MAIN	ST	086-25-051
42		NO SITUS		086-26-039
43		NO SITUS		086-26-040
44		NO SITUS		086-26-042
45	0	MILPITAS	BL	086-28-006
46	0	VISTA	WY	086-29-005
47		WRIGLEY	WY	086-29-036
48		YOSEMITE	DR	086-29-047
49	876	YOSEMITE	DR	086-30-047
50		YOSEMITE	DR	086-30-048
51		AMES	AV	086-30-060
52	0			086-31-003
53	0			086-32-084
54	1646	CENTRE	DR	086-33-110
55	0			086-41-014
56	375	DEMPSEY	RD	088-01-002
57	335	S PARK	DR	088-03-019
58	0	DEMPSEY	RD	088-04-060
59		S PARK	DR	088-04-062
60	0	DEMPSEY	RD	088-04-076
61	534	S PARK	DR	088-06-039
62	2013	YOSEMITE	DR	088-20-023
63	575	CARLSBAD	ST	088-20-102
64	632	CARLSBAD	ST	088-20-125
65	1966	YOSEMITE	DR	088-26-149
66	0	OLD	RD	092-34-008

67	1250	PIEDMONT	RD	092-34-014
68	2235	URIDIAS	RD	092-37-050

68 records of 68



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive a Report on the Local Emergency Related to the Severe Weather Event on January 4-5, 2023 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	2/7/2023
	<u>Recommendation:</u> Receive a report on the local emergency relating to the severe weather event on January 4-5, 2023.

Background:

On January 3, 2023 the Milpitas Emergency Operations Center was activated. This was the result of prolonged storms which caused significant damage in the City of Milpitas. On January 4, 2023, Milpitas City Manager McHarris proclaimed an emergency declaration. This declaration was ratified by City Council on January 10, 2023. Santa Clara County also proclaimed a disaster and incurred over \$6 million in damages. The estimated damage assessments were provided by Santa Clara County jurisdictions which included the City of Milpitas. On February 2, 2023, FEMA included Santa Clara County into the Major Disaster Declaration, DR-4683-CA. This declaration made the city of Milpitas eligible to request expense reimbursements for permanent repairs to a portion of East Calaveras Road that was significantly damaged due to a landslide.

The next step for the City is to submit the Request for Public Assistance form with the City's intent to for federal reimbursement funding related to the permanent rebuild of the East Calaveras hillside roadway. Since Santa Clara County was added to FEMA's Major Disaster Declaration, DR-4683-CA, Milpitas will also be included into this Federal Declaration.

Recommendation:

Receive a report on the local emergency relating to the severe weather event on January 4-5, 2023.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of 78 townhome condominiums and 12 accessory dwelling units and associated site improvements on an approximately 4.1-acre site located in the High-Density Mixed-Use (R3-TOD) Zoning District with a Transit Oriented Development Overlay at 675 Trade zone Boulevard and 1951 Tarob Court, and find a CEQA exemption. The Project is located within the Transit Area Specific Plan (TASP) area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)
Category:	Public Hearings-Community Development
Meeting Date:	2/7/2023
	<u>Recommendation:</u> Adopt a Resolution to approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006, and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval, and find a CEQA exemption.

BACKGROUND:

The City of Milpitas received an application from Toll Brothers (applicant) requesting a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of a 78-unit townhome condominium subdivision, comprised of 13 multi-family buildings up to 37 feet in height, with 191 parking spaces and associated site improvements, on a 4.1-acre site located at 675 Trade Zone Boulevard and 1951 Tarob Court in the Trade Zone/Montague Subdistrict of the Transit Area Specific Plan (TASP) area. The application was submitted in accordance with California Senate Bill 330, also known as the Housing Crisis Act of 2019.

The Project consists of eight two-bedroom, 18 three-bedroom, 52 four-bedroom townhome condominium units. All 78 townhome units will have an attached two-car garage. 12 of the four-bedroom units will also have a ground-floor, attached accessory dwelling unit (ADU). All ADUs will be studio units. Twelve of the townhome condominiums (one two-bedroom, three three-bedroom, and eight four-bedroom townhomes) will be reserved for moderate-income households (below 80% Avg. Median Income) to fully comply with the City's Affordable Housing Ordinance. Since the applicant is restricting the sale of more than 10% of the housing units to moderate-income residents, the Project qualifies for concessions, waivers, and parking reductions under the State Density Bonus Law.

The proposed Project requires approval of five entitlements, as follows:

1. Site Development Permit No. SD22-0006: To allow the development of 13 multi-family buildings, up to three stories in height, with up to 78 townhouse condominiums and 12 accessory dwelling units on the 4.1-acre site; and
2. Conditional Use Permit No. UP22-0002: To allow for condominium use and associated subdivision; and
3. Vesting Tentative Map No. MT22-0002: To establish 78 residential condominium spaces, related common areas, and associated easements; and

4. Density Bonus Permit No. DB22-0001: To ensure compliance with State Density Bonus law and regulations; and
5. Tree Removal Permit No. TR22-0006: To remove 55 ordinance-sized trees and replace them with 196 new trees.

Although not an entitlement, Environmental Assessment No. EA22-0003 was prepared to comply with the environmental review requirements of the California Environmental Quality Act (CEQA).

California Senate Bill 330 (SB 330) is a statewide bill intended to reduce the time to approve housing developments in California. It became effective on January 1, 2020, and Senate Bill 8 (SB 8) recently extended the Act through January 1, 2030. Under SB 330, eligible projects receive enhanced streamlining and vesting opportunities by filing a preliminary application. Those benefits include:

- Freezes the ability of local governments to downzone, adopt new development standards, or change land use in residential and mixed-use areas if the change results in less-intensive uses.
- Allows developers to request approval of housing developments that exceed density and design controls of the underlying zoning if the existing zoning conflicts with the General Plan or a Specific Plan.
- Expedites the permitting process for all housing development and limits the list of application materials that cities can review.

Through the Housing Accountability Act, the State requires a local jurisdiction to approve housing consistent with applicable, objective land use standards. Under the State Density Bonus Law, the state also requires a local jurisdiction to approve waivers and concessions for projects that meet certain affordability requirements. Consistent with state law, Planning staff has determined that the Project is consistent with applicable, objective design standards and qualifies for certain waivers, incentives, or concessions under the State Density Bonus Law. As provided under SB 330, a local government agency can deny an eligible housing project only if there is strong evidence that denial is the only way to avoid an adverse impact on public health and safety.

On December 14, 2022, the City of Milpitas Planning Commission voted unanimously (six ayes, one absent) recommended the City Council approve the Project, subject to the Conditions of approval.

Staff has found the required entitlements comply with the policies, standards, and processes outlined in the Senate Bill 330, State Density Bonus Law, the City of Milpitas 2040 General Plan, the Transit Area Specific Plan (TASP), the Zoning Ordinance, the Subdivision Ordinance, and other provisions of the Milpitas Municipal Code (MMC), and recommends that the City Council open and close the public hearing, consider the exemptions in accordance with CEQA and adopt the Resolution subject to the conditions of approval.

ANALYSIS:

This analysis will evaluate elements of the proposed Project for conformance with the Milpitas 2040 General Plan, the 2008 Transit Area Specific Plan, the Zoning Ordinance, and other provisions of the Milpitas Municipal Code, Senate Bill 330, and State Density Bonus Law.

Milpitas 2040 General Plan Conformance

The General Plan designation for the project site is Milpitas Metro Specific Plan (MMSP), but since City Council has not yet formally adopted the MMSP, the TASP development standards currently apply. In addition, the proposed project qualifies for streamlined review under California Senate Bill 330 (Housing Crisis Act of 2019), so the project is subject only to those ordinances and policies in effect when the completed preliminary application was submitted. The project is consistent with the development standards of both the MMSP and TASP, which are intended to facilitate the development of higher intensity, mixed-use neighborhoods near the Milpitas Transit Center and encourage walking, biking, and alternative modes of transportation for residents and employees in the immediate area.

The Project is in conformance with the applicable policies and standards in the City's General Plan, as shown in Table 1 on the following page.

Table 1: General Plan Consistency

Policy	Conformance
Policy LU 1-4: <i>Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels. The project, as proposed, consists of 78 townhome condominiums and 12 ADUs, ranging from studios to four bedrooms. 12 of the residential units will be reserved for moderate-income households.
Policy LU 5-1: <i>Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and services by retrofitting existing development over time as area improvements or redevelopment occurs.</i>	Consistent. The Project, as proposed, is well integrated with the existing residential developments along Lundy Place and Tarob Court, as the project has a similar architectural style, building height, multi-family product, and site layout. Additionally, the project will gain ingress and egress from both Tarob Court and Journey Street via new driveway curb cuts, and as a result, the project will blend seamlessly into the fabric of the existing community. The project will also be compatible and complementary to future high-density residential development planned for other parcels on Tarob Court which are currently developed with light industrial uses but are zoned for redevelopment as similar high-density residential uses. The project is consistent with the development standards and design guidelines of the Milpitas Transit Area Specific Plan, which includes provisions for neighborhood development that ties circulation systems and open spaces into existing streets and open spaces and creates connectivity to nearby transit and other amenities.
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	Consistent. The Project meets the height standards by proposing three-story buildings, up to 37-feet in height, in a zoning district that allows a maximum height of 50 feet. The Project's height is consistent with the recently entitled townhome project at 2001 Tarob Court, which will have buildings up to 50 feet in height.

Transit Area Specific Plan Conformance

The TASP/MMSP land use designation for the Project is High-Density, Transit-Oriented Residential. This designation provides for medium-density residential uses within the Trade Zone/Montague Subdistrict. As demonstrated in Table 2, the Project is consistent with the applicable TASP/MMSP land use policies.

Table 2: TASP/MMSP Consistency

Policy	Conformance
Policy 3.4: <i>Provide a variety of housing types for different types of households, different income levels, different age groups, and different life-styles.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels.

Policy	Conformance
Policy 3.2: Affordable housing units should be provided with new housing developments. Determine affordable unit requirements on a project-by project basis, considering the size of the project, the location of the site, and the mix of affordable units in the Midtown Area. Allow housing developments of 12 units or less to pay a fee in lieu of providing affordable units.	Consistent. The Project conforms to the City's Affordable Housing Ordinance and will designate 12 out of the 78 townhome units, or fifteen percent (15%) of the base number of units, for moderate-income level individuals or households.
Policy 3.3: Affordable housing should be integrated into all residential projects.	Consistent. The Project will provide affordable housing through inclusion and design. The applicant will restrict 12 residential units for sale to moderate-income individuals or households and integrate accessory dwelling units into 12 townhome condominiums, providing options in housing.

Zoning Conformance

The project site is zoned R3 Multiple-Family High Density Residential with a Transit-Oriented Development (-TOD) Overlay. As demonstrated in Tables 3 and 4, the project is consistent with most of the applicable development standards for the R3 Multiple-Family High Density Residential Zoning District and TASP/MMSP area. Where the project is not in compliance with objective standards, the State Density Bonus Law requires the City to grant appropriate concessions, waivers, and parking reductions for qualifying projects.

Table 3: Summary of R3-TOD Development Standards

Standard (R3-TOD)	Required	Proposed	Conformance
Density	21-40 du/ac	22 du/ac; 90 units total	Yes
Front yard Setback	8 foot-15 foot (max.) from back of sidewalk	15 feet	Yes
Side Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Rear Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Height	75 feet	37 feet	Yes
Landscaping	A minimum of twenty-five percent (25%) of the total lot area shall be landscaped or recreational open space, exclusive of parking and vehicular traffic area. 25% x 4.1 = 1.03 acres/44,295 SF required	52,870 SF or 1.2 acres (29%)	Yes

Standard (R3-TOD)	Required	Proposed	Conformance
Private Open Space	An average of 200 sq. ft. of usable open space shall be provided for each dwelling unit. $200 \times 78 = 15,600 \text{ sq.ft.} = 0.36 \text{ acres}$ 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	Private open space (balconies) = 22,330 sq.ft. = 30% of 44,295 + 11,250 sq. ft. decks and porches Total private open space = 286.3 SF/ unit Private balconies provided for each unit.	Yes

In addition, projects located in the TASP/MMSP area must comply with the additional development and design standards outlined in Table 4:

Table 4: Additional Development Standards Applicable in the TASP/MMSP

	Standard	Proposed	Conformance
Projections into Required Yards	Porches, stairs, balconies, bay windows, and awnings may project up to six feet into required setbacks.	Porches, stairs, balconies, bay windows and awnings project under 6' into required setbacks	Yes
Building Orientation and Entrances	Building must face the street, and primary building entrances must be oriented toward the street.	Buildings generally face Tarob Court which is the Project's primary street frontage	Yes
Vehicle Parking	Two to Three Bedroom – 42 spaces Four+ Bedroom – 135 spaces Guest Parking – 35 spaces Total – 212 spaces (146 covered, 66 uncovered)	156 resident spaces 35 guest spaces 191 Total (156 covered, 35 uncovered)	Yes, with approval of a Density Bonus waiver
Bicycle Parking	On-street guest racks equivalent to five percent (5%) of the parking requirement. Ten (10) bicycle parking spaces	Ten (10) bicycle parking spaces	Yes
Parking Location	Parking must be located so that it is not visible from the street.	78 private garage entrances face the interior drive aisle	Yes
Parking Garages attached to individual units	Garages may not occupy more than 50% of Ground Level Frontage facing street.	No parking garage is facing the street frontage.	Yes

	Standard	Proposed	Conformance
Parking Access and Curb Cuts	Maximum two curb cuts per lot per street frontage	Two curb cuts along Journey Street and one on Tarob Court	Yes
Park Acreage Requirements	0.08 acres (after payment of TASP/MMSP fee)	0.34 acres	Yes

State Density Bonus Law

To encourage affordable housing production, the State Density Bonus Law (Gov. Code § 65915 et seq.) allows developers to receive a density bonus and other incentives, such as concessions, waivers, and parking reductions, when affordable housing is incorporated within a project. The Density Bonus is a state mandate, and any Project that meets the requirements of the state law is entitled to receive the incentives associated with it.

The applicant may request waivers and concessions under the State Density Bonus Law because the Project reserves more than 10 percent of total units as below-market-rate (“affordable”) units for moderate-income households. The Project includes 12 affordable units, which satisfies the 15 percent minimum required under the City’s Affordable Housing Ordinance. The City must grant any waivers and concessions requested by the applicant for a qualifying project under the State Density Bonus Law.

Table 5 outlines the waivers and parking reductions requested for the proposed Project.

Table 5: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Waiver</i>	Number of Compact Parking Spaces	A request to construct 17 of the 35 onsite guest spaces (49%) as compact stalls, when a maximum of 40% (14 stalls) is allowed per MMC.	A greater number of compact stalls is necessary in order to provide the required number of guest spaces.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Waiver</i>	90-Degree Stall Depth	To construct 90-degree guest parking stalls with a stall width of 9 feet and stall depth of 16 feet, where 9 feet and 18 feet are required	A reduction in the 90-degree guest parking stall depth is necessary in order to physically construct the proposed development.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Parking Waiver</i>	Vehicle Parking Reduction	To provide 191 vehicle parking spaces where 212 vehicle parking spaces are required per MMC.	The State Density Bonus Law provides a reduction in the minimum parking requirements for qualifying projects	The State Density Bonus Waiver allows a waiver of minimum parking standards, which must be granted by the City

Off-Street Parking Standard Waivers

For multi-family residential uses within the R3 Zoning District, MMC Section XI-10-53.07(B) allows up to 40% of the required parking stalls, located in parking areas and garages containing ten (10) or more stalls, to be designated as compact stalls. For the proposed project, this equates to a maximum number of 14 compact stalls. MMC Section XI-10-53.13(B)(2)(b) also states that compact parking stalls shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls. However, the applicant has proposed 17 compact guest stalls, with 14 of the stalls clustered together in a row along Court C. A greater proportion of compact stalls, as well as the grouping of the stalls together, are necessary in order to provide the required number of guest spaces and facilitate the physical layout of the proposed development.

Additionally, MMC Table XI-10-53.13-1 requires 90-degree parking stalls to be nine-feet wide and 18-feet deep. However, the applicant has proposed to construct the 90-degree parking stalls at a stall width of nine-feet wide and 16-feet deep. A reduction in the 90-degree guest parking stall depth is necessary in order to physically construct the proposed development and provide the required number of guest spaces.

Parking Incentives

Under the State Density Bonus Law, an applicant who qualifies for a density bonus may propose reduced parking standards. Projects located in the TASP area typically require 1.6 to 2.0 vehicle parking spaces for each two- and three-bedroom unit. The project must also provide an additional 20% vehicle parking for guests. However, under State Density Bonus Law and upon a developer's request, the City must allow a reduction in vehicle parking, as shown in Table 6.

Table 6: Maximum Parking Requirements (under State Density Bonus Law)

Type of Unit (or Guest Parking)	Number of Vehicle Parking Spaces
Accessory Dwelling Units	No parking required if located within one-half mile of public transit
Studio and One Bedroom	One space
Two-Bedroom and Three-Bedroom	1.5 spaces
Four-Bedroom	2.5 spaces
Guest Parking	No guest parking required

The applicant has requested reduced parking standards and has proposed to provide the following, as demonstrated in Table 7.

Table 7: Parking Analysis (under State Density Bonus Law)

Land Use	Unit Count	Rate	Spaces Required	Spaces Provided	Notes
Two and Three - bedroom	26	1.5 / unit	39	52	
Four- bedroom	52	2.5 / unit	135	104	
ADU	12	0 / unit	0	0	Bicycle parking provided
Guest Parking	N/A		0	35	Included as part of the total number of parking spaces required under the State Density Bonus Law
Total			174	191	

As noted in the Project Description, each two-bedroom and three-bedroom unit will include a two-car garage, and each four-bedroom unit will also include a two-car garage. In addition, 35 additional surface parking spaces will be provided for guests along internal Street B, Street C, and Court C, making a total of 191 vehicle spaces and consistent with the reduced parking standard under the State Density Bonus Law.

Subdivision Ordinance

The Project's form, content, and dedications of the proposed tract map have been reviewed by the City of Milpitas Engineering and Planning Department and deemed consistent with the provisions of MMC Section XI-1-4 (Tentative Maps), as outlined in the attached Resolution. Tentative Maps require approval of a Resolution by the Planning Commission prior to final approval by the City Council.

Architectural Design

The Project's design concept includes three-story building heights consistent with existing and planned residential development along Tarob Court and Journey Street. The contemporary design includes the following design accents and materials:

- Roof: Composition Shingle
- Exterior: Stucco Finish with Fiber Cement and Hardee Siding
- Accents: El Dorado Stone and Metal Railings
- Window/Door Trim: Fiber Cement Trim
- Entry Door: Contemporary Front Entry Door with Sidelights
- Garage Door: Cloplay Steel Garage Door with Contemporary Slim Windows

The Project conforms to the Transit Area Specific Plan design guidelines, which require orientation of the building to the street, well-articulated exterior walls with consistent style and materials, muted colors for primary building walls with richer accent colors, and integrated parking. Furthermore, the Project has a similar architectural style to the Parkside development located across the street on Tarob Court. The applicant has provided an exhibit with proposed colors and materials for review by City staff and the City Council, as shown in Figure 1.

Figure 1: Color/Materials Board



Figure 2 is a rendering of a typical elevation of the proposed Project.

Figure 2: Project Elevation Facing South toward Trade Zone Boulevard



Tree Removal and Landscaping Requirements

The Project includes removal of 95 existing trees, including 55 protected trees, from the project site. Pursuant to MMC Title X, Chapter 2 (Tree Maintenance and Protection), the project must plant two replacement trees for every one protected tree that is removed, or 110 new trees planted on the site. The Project will be planting 196 new trees on site. Other new landscaping will include various shrubs, grasses, and vines (New Zealand Flax, Manzanita, Reed Grass, and Creeping Fig) as demonstrated in Figure 5.

Figure 3 – Landscape Plan



Parkland and Open Space Requirements

The TASP requires all new developments to provide 3.5 acres of parkland for every 1,000 persons or payment of park in-lieu fees, as allowed by MMC Section XI-1-9 (Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes). The Parkland Fee is based upon the estimated number of persons expected to reside in the development (per U.S. Census definitions) and the estimated value of parkland in the City of Milpitas (currently \$2,787,840 per acre).

Based on data from the 2020 U.S. Census and the State of California, the City estimates 2.49 people will occupy each unit. The Project proposes 78 units, resulting in an estimated population of 194 persons. Based on the population estimate, the applicant must provide 0.68 acres of parkland, equivalent to approximately \$1,895,000.

All projects in the TASP area are required to pay a Transit Area Development Impact Fee (TADIF). A portion of that fee pays for parkland. The park portion of the TASP fee for this project is valued at \$1,682,023.98, equivalent to 0.6 acres of parkland. This amount will be applied to the Project's parkland requirement, leaving a delta of 0.08 acres to be satisfied.

To satisfy the 0.08-acre delta, the applicant has incorporated 0.34 acres as private recreation space on-site, as permitted by MMC Section XI-1-9. For example, each townhome has private balconies totaling 22,330 square feet. In addition, the Project includes an additional 52,870 square feet of on-site residential open space. The parkland requirement is met by designing these elements into the project, as demonstrated in Table 8 below.

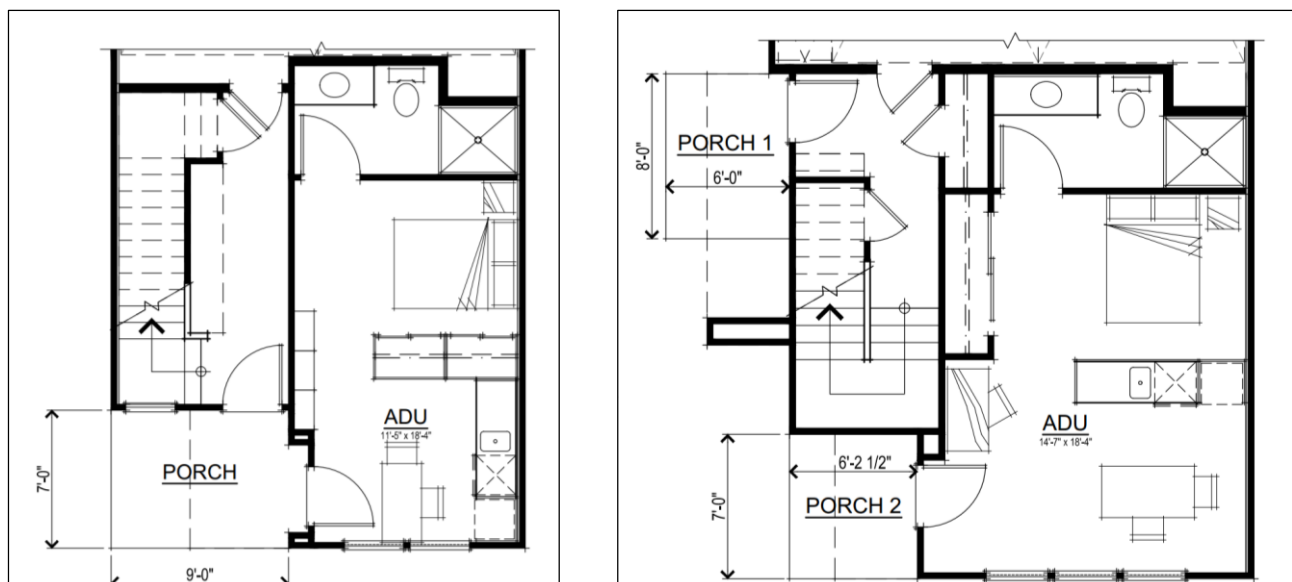
Table 8: Parkland Requirement Analysis

Toll Brothers Townhomes Proposed	78
Toll Brothers Townhomes Population Estimate (2.49 persons/unit per Census)	194 persons
TASP Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
Total Parkland Acreage or In-Lieu Fee Required	0.68 acres / \$1,895,090
Amount Satisfied Through TASP Fees (Acreage/Dollars)	0.60 acres / \$1,682,024
Remaining Parkland Acreage or In-Lieu Fee Required	0.08 acres / \$231,066
Private Recreation/Open Space Included in the Project	0.34 acres
Balance of Parkland Acreage or In-Lieu Fees Due	0.00 acres / \$0

Accessory Dwelling Units

The Project includes 12 attached ADUs located on the ground floor of 12 four-bedroom townhome condominiums. Each integrated ADU is designed as a studio unit with a living/sleeping area, bathroom, kitchenette, and separate front door entrance, as demonstrated in Figure 4 below.

Figure 4 – Townhome/ADU Floor Plans



Although the proposed ADUs are considered residential units (for density purposes), their integral design limits the City's ability to charge development fees (such as TADIF or Park-In Lieu Fees). Per Government Code Section 65852.2. (f)(3)(A), A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Six of the proposed ADUs will be approximately 287 square feet in size, and the other six proposed ADUs will be approximately 362 square feet in size, thus qualifying for the impact fee exception under State law.

Affordable Housing Ordinance

According to MMC Section XII-1-3.00 (Affordable Housing), the applicant must reserve fifteen percent (15%) of the total number of dwelling units within the development as affordable units. The applicant proposes to meet the City's affordable housing requirement by reserving twelve units on-site for moderate-income households. The project has been conditioned to execute an agreement imposing appropriate ownership controls on the affordable units. The applicant has also demonstrated where such units will be cited on the property, as demonstrated in Figure 5.

Figure 4 – Affordable Units



Traffic and Access

Vehicular access to the project site will be provided two driveways with direct ingress/egress from Journey Street and one driveway with direct ingress/egress from Tarob Court. An internal private street grid will provide access to 78 private residential garages with a total of 156 vehicle parking spaces. In addition, 35 guest parking spaces will be provided along Street B, Street C, and Court C, including two ADA-compliant spaces and three electric vehicle (EV) parking spaces. The EV parking spaces will provide full charging facilities.

Grading

The proposed Project would result in the demolition of all existing non-residential structures, paving, and landscaping on the subject site. In addition, the applicant would import 16,100 cubic yards of fill to pad the site and increase the finish grade heights to meet flood zone requirements.

Utilities

The project site is in an urban area and is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. All public utilities will be provided to the Project site.

Climate Action Plan

The City of Milpitas Climate Action Plan (CAP) was adopted in 2013 and included Greenhouse Gas (GHG) reduction goals, policies, and actions for new and existing development projects. The Project would follow these goals and policies by locating future residents near public transportation, jobs, restaurants, and services. The City recently adopted the Climate Action Plan Update on August 9, 2022. In addition, the Project would incorporate green building measures in compliance with CAL Green standard building measures for residential buildings and Title 24 requirements to reduce energy usage.

POLICY ALTERNATIVE:

Alternative 1: Deny the applicant's request for a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment.

Pros: Denial of the Project would allow the site to remain legal non-conforming industrial uses, with the possibility a higher density residential project would be submitted. A higher density project would generate more impact fees to pay for needed infrastructure.

Cons: Denial of the Project would deprive the City of 90 new residential units, twelve of which are reserved for below market rate households. The Project would further support affordable housing needs within the region, including the City's Regional Housing Needs Allocation (RHNA). Denial of the project would also be contrary to the goals and objectives of State and local density bonus laws.

Reason for Not Recommending: The proposed project is consistent with the City's General Plan, Transit Area Specific Plan (Metro Plan), and zoning, all of which support the development of affordable housing within proximity to transit. The Project includes twelve townhomes reserved for moderate-income households in addition to 12 attached accessory dwelling units, which are designed with affordability in mind, increasing the number of affordable units in the City of Milpitas and providing more options of housing for its residents. The project complies with the affordability provisions of the State Density Bonus Law and qualifies for the waivers and parking reductions requested by the applicant. The project complements nearby residential projects.

FISCAL IMPACT:

The Project is subject to the following impact fees:

- **TASP (TADIF) Impact Fee** - The TASP impact fee is currently set at \$47,550/unit for residential uses for the Fiscal Year 2022-2023. Based on the development of 78 residential units, the estimated TASP impact fee for this Project is \$3,708,900 (\$47,550/unit x 78 units). This fee is automatically adjusted each fiscal year in conjunction with the City's annual budget process. The applicant must pay the fee before the issuance of building permits.

- *Parkland Impact Fee* - A portion of the TASP impact fee includes a portion of the parkland in-lieu fee. Therefore, by paying the TASP impact fee and developing 0.34 acres of public and private open space, the applicant will meet the parkland fee requirement without paying additional parkland fees.
- *Public Art Fee* - The Project will comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. This fee is currently set at one-half of one percent of building development costs. The proposed Project will pay the fee based on the construction valuation at the building permit issuance.

ENVIRONMENTAL IMPACT:

The City prepared an environmental assessment in accordance with the requirements of the California Environmental Quality Act (CEQA), as amended, and state and local guidelines implementing CEQA. The proposed project is exempt from further environmental review pursuant to CEQA Guidelines Section 15183.3(b) (Residential Infill). Exhibit 2 of Attachment A of the Resolution for the proposed Project is a memorandum demonstrating compliance with CEQA Guidelines Section 15183.3(b). As a separate and independent basis, the project is also exempt from further CEQA review pursuant to CEQA Guidelines Section 15182 (Projects Consistent with a Specific Plan). The proposed project is generally consistent with the Milpitas Transit Area Specific Plan.

RECOMMENDATION:

Adopt a Resolution to approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB21-0001, Tree Removal Permit No. TR22-0006, and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval.

Attachment(s):

Attachment A: City Council Resolution (with COA's and CEQA exemption memorandum)
 Attachment B: Planning Commission Staff report dated December 14, 2022
 Attachment C: Planning Commission Meeting Minutes for December 14, 2022
 Attachment D: Project Plans

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD22-0006, CONDITIONAL USE PERMIT NO. UP22-0002, VESTING TENTATIVE MAP NO. MT22-0002 DENSITY BONUS PERMIT NO. DB22-0001, TREE REMOVAL PERMIT NO. TR22-0006, AND ENVIRONMENTAL ASSESSMENT NO. EA22-0003 TO ALLOW DEMOLITION OF TWO INDUSTRIAL BUILDINGS, REMOVAL AND REPLACEMENT OF 55 ORDINANCE-SIZE TREES, AND DEVELOPMENT OF 78 TOWNHOME CONDOMINIUMS AND 12 ACCESSORY DWELLING UNITS, CONSISTING OF THIRTEEN MULTI-FAMILY RESIDENTIAL BUILDINGS UP TO 37 FEET IN HEIGHT (THREE STORIES), WITH 191 VEHICLE PARKING SPACES AND ASSOCIATED SITE IMPROVEMENTS ON A 4.1-ACRE SITE LOCATED WITHIN THE TRANSIT AREA SPECIFIC PLAN / MILPITAS METRO SPECIFIC PLAN AREA AT 675 TRADE ZONE BOULEVARD AND 1951 TAROB COURT (APN 086-36-045,033) AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan (the “EIR,” State Clearinghouse No. 2006032091), and subsequently adopted the Transit Area Specific Plan (the “TASP”); and

WHEREAS, the Transit Area Specific Plan encompasses some 437 acres and envisions the development of 7,109 dwelling units, 287,075 square feet of retail space, and 993,843 square feet of office space and industrial, and includes development standards, goals and policies guiding development within the Plan area. Due to the physical characteristics of the area, including major streets, railroads and creeks, the Transit Area Specific Plan also established sub-districts with specific goals and policies to accommodate those unique characteristics; and

WHEREAS, on May 12, 2022, Toll Brothers (the “Applicant”) submitted an application to the City of Milpitas for the entitlements necessary to allow the development of a 78-unit townhome condominium subdivision, comprised of thirteen multi-family buildings up to 37 feet in height, 191 parking spaces, and associated site improvements on a 4.1-acre site located at 675 Trade Zone Boulevard and 1951 Tarob Court in the Trade Zone/Montague Subdistrict of the Transit Area Specific Plan (TASP) area (the “Project”). The Project requires approvals of the following entitlements:

- a. Site Development Permit (SD22-0006) to allow the development of thirteen multi-family buildings, up to three stories in height, with up to 78 townhouse condominiums and 12 accessory dwelling units on the 4.1-acre site.
- b. Conditional Use Permit (UP22-0002) to allow for condominium use and associated subdivision.
- c. Vesting Tentative Map (MT22-0002) to establish 78 residential condominium spaces, related common areas, and associated easements.
- d. Density Bonus Permit (DB22-0001) to ensure compliance with State Density Bonus law and regulations.
- e. Tree Removal Permit (TR22-0006) to remove 55 ordinance-sized trees and replace them with 196 new trees.

WHEREAS, the Planning Department completed Environmental Assessment No. EA22-0003 for the Project in accordance with CEQA, and recommends that the City Council determine this Project is covered under CEQA Guidelines Section 15183.3(b) (Residential Infill) as discussed within a memorandum (the “Memorandum,” a true and correct copy of which is attached hereto and incorporated herein as **Exhibit 2 to Exhibit A**); and

WHEREAS, the Project site is located within the TASP area and is therefore further exempt from environmental review pursuant to CEQA Guidelines Section 15182 (Residential Projects Pursuant to a Specific Plan); and

WHEREAS, the proposed Project is found to be consistent with the goals, policies, and regulations of the California Density Bonus Law (Government Code Section 65915 et seq.), Milpitas General Plan 2040, Transit Area Specific Plan (Milpitas Metro Specific Plan) and Milpitas Zoning Ordinance, specifically Milpitas Municipal Code Section XI-10-54.15 (Density Bonus for Affordable Housing Developments), which permits concessions and waivers and modifications of development standards, as analyzed and documented in the staff report; and

WHEREAS, the Planning Commission is an advisory body to the City Council pursuant to Milpitas Municipal Code Section XI-10-64.03 (Consideration of Concurrent Applications), where, as here, due to the application for a Tentative Map pursuant to Milpitas Municipal Code Section XI-1-4.03 and a density bonus pursuant to Milpitas Municipal Code Section XI-10-54.15, the City Council is the highest review authority for the Project, and, accordingly, all review by other bodies with approval authority over the application shall be in the form of a recommendation to the City Council; and

WHEREAS, on December 14, 2022, the Planning Commission held a duly noticed public hearing, during which meeting the Planning Commission considered the CEQA exemption findings as well as Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003 for 675 Trade Zone Boulevard and 1951 Tarob Court, heard a presentation from staff, and had the opportunity to hear from members of the public and closed the public hearing on the item; and

WHEREAS, by adoption of Resolution No. 22-029, the Planning Commission recommended that the City Council approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003 for 675 Trade Zone Boulevard and 1951 Tarob Court; and

WHEREAS, the documents and other materials which constitute the record of proceedings upon which the City Council bases the recommendation and the findings contained within this Resolution are available and may be reviewed at Milpitas City Hall, located at 455 E. Calaveras Boulevard, Milpitas, California 95035; and

WHEREAS, on February 7, 2023, the City Council held a duly-noticed public hearing, during which meeting the City Council considered the CEQA exemption findings as well as Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003 for 675 Trade Zone Boulevard and 1951 Tarob Court, heard a presentation from staff, and had the opportunity to hear from members of the public; and

WHEREAS, the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence before it as a whole; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

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

SECTION 1. Recitals

The City Council has considered the full record before it, which includes, but is not limited to, such things as all published staff reports, oral and written testimony by staff, the Planning Commission, City Council and the public, and all other relevant materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and incorporated herein by reference.

SECTION 2. California Environmental Quality Act Findings

The proposed Project is exempt from further environmental review pursuant to CEQA Guidelines Section 15183.3(b) (Residential Infill) in that the project is located in an urban area that has either been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter; satisfies the performance standards

provided in CEQA Guidelines Appendix M; and is consistent with the general use designation, density, building i and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy. Furthermore, there is no reasonable possibility the project will have a significant effect on the existing environment due to unusual circumstances, no substantial changes with respect to residential infill in the immediate area have occurred since community-level environmental review was certified (June 3, 2008), and no new information has become available regarding any residential infill project has become known, and could not have been known at the time that community-level environmental review was certified and adopted. As a separate and independent basis, the Project is also exempt from further environmental review pursuant to CEQA Guidelines Section 15182 (Projects Pursuant to a Specific Plan).

SECTION 3. Vesting Tentative Map Findings (Section XI-1-20.01)

The City Council makes the following findings based on the evidence in the administrative record in support of Vesting Tentative Map No. MT21-0002:

- a. *The tentative subdivision map is consistent with the General Plan.*

The General Plan designation for the project site references MMSP, but since the City Council has not formally adopted the MMSP, the TASP development standards currently apply. Both the MMSP and TASP standards intend to facilitate the development of higher intensity, mixed-use neighborhoods near the Milpitas Transit Center and encourage walking, biking, and alternative modes of transportation.

The TASP designates this project site as High Density, Transit Oriented Development (HD-TOD). The intent of this designation is to provide high-density housing at a density range of 21-40 dwelling units/acre, and this project proposes 22 dwelling units/acre. The Project is further consistent with the General Plan as outlined in Table 1.

Table 1: General Plan Consistency

Policy	Conformance
Policy LU 1-4: <i>Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels. The project, as proposed, consists of 78 townhome condominiums and 12 ADUs, ranging from studios to four bedrooms. Twelve of the primary residential units will be reserved for moderate-income households.
Policy LU 5-1: <i>Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and services by retrofitting existing development over time as area improvements or redevelopment occurs.</i>	Consistent. The Project, as proposed, is well integrated with the existing residential developments along Lundy Place and Tarob Court, as the project has a similar architectural style, building height, multi-family product, and site layout. Additionally, the project will gain ingress and egress from both Tarob Court and Journey Street via new driveway curb cuts, and as a result, the project will blend seamlessly into the fabric of the existing community. The project will also be compatible and complementary to future high-density residential development planned for other parcels on Tarob Court which are currently developed with light industrial uses but are zoned for redevelopment as similar high-density residential uses
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's</i>	Consistent. The Project meets the height standards by proposing three-story buildings, up to 37 feet in height,

Policy	Conformance	Item # 7.
<i>Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	in a zoning district that allows a maximum height of 50 feet. The Project's height is consistent with the recently entitled townhome project at 2001 Tarob Court, which will have buildings up to 50 feet in height.	

b. *None of the conditions identified in California Government Code Section 66474 exist, to wit:*

- 1) *That the proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.*

As outlined above, the Project includes the development of 78 residential condominium units at a density of 22 dwelling units/acre. The General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan land use designation applicable to the site (Milpitas Metro Specific Plan (MMSP), and High Density, Transit-Oriented Residential (HD-TOR)) permits residential development at densities of 21 to 40 dwelling units/acre. The map is therefore consistent with the General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan.

- 2) *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

The Project proposes 22 dwelling units per acre, consistent with the 21-40 dwelling units per acre allowed by the general plan and corresponding specific plans. Additionally, the Project is consistent with the policies associated with the MMSP/TASP, as identified in Tables 3 and 5, except for vehicle parking, which is allowed per State Density Bonus Law.

- 3) *That the site is not physically suitable for the type of development.*

The site is surrounded by property designated for high density, transit-oriented residential development under the City's General Plan and zoned for this type of development under the Milpitas Metro Specific Plan/Transit Area Specific Plan. In addition, this site is suitable for the higher density development based on the location, physical attributes, and proposed infrastructure improvements.

- 4) *That the site is not physically suitable for the proposed density of development.*

The project site is within the MMSP/TASP designation of High Density, Transit Oriented Residential (HD-TOR), permitting residential development at 21 to 40 dwelling units/acre. The design will physically suit the site by providing required utilities, sufficient open space, and adequate residential living facilities.

- 5) *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

The Project, including the subdivision and its associated improvements, is located in an urbanized area and was previously developed as two industrial buildings. Therefore, it will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- 6) *That the design of the subdivision or type of improvements is likely to cause serious public health problems.*

The Project, including the subdivision and its associated improvements, has been designed in a manner that will not cause serious public health problems. The Project has been reviewed by Building, Fire, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that it can be adequately serviced to preserve public health and wellness.

- 7) *That the design of the subdivision or the type of improvements will conflict with easements, acquire public at large, for access through or use of, property within the proposed subdivision.*

Upon review of the subdivision map, it has been determined that the design of the subdivision or the type of improvements will not conflict with any easements acquired by the public at large, for access through or use of, property within the proposed subdivision. The subdivision does not involve the vacation of easements; however, the existing right-of-way will be abandoned, and portions of the area will be retained for a Public Services Utility Easement (PSUE).

SECTION 4. Site Development Permit Findings (Milpitas Municipal Code Section XI-10-57.03(F))

The City Council makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD22-0006:

- a. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The project's site design is consistent with the MMSP/TASP development standards for the Trade Zone/Montague Sub-district. The project consists of 78 condominium units and associated site amenities on a 4.1-acre site. The building's contemporary architectural design visually relates to and is compatible with the adjacent townhome projects along Tarob Court and Journey Street. Colors are earth tone shades of browns and grays with portions of yellow vertical siding. In addition, future residents will access garages via private alleyways, similar to nearby residential developments.

- b. *The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 2. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the R3-TOD standards are needed, the applicant has requested waivers and parking exceptions under the State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

Table 2: Summary of TASP R3-TOD Zoning District

Standard (R3-TOD)	Required	Proposed	Conformance
Density	21-40 du/ac	22 du/ac; 90 units total	Yes
Front yard Setback	8 foot-15 foot (max.) from back of sidewalk	15 feet	Yes
Side Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Rear Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes

Standard (R3-TOD)	Required	Proposed	Conformance
Height	75 feet	37 feet	Yes
Landscaping	A minimum of twenty-five percent (25%) of the total lot area shall be landscaped or recreational open space, exclusive of parking and vehicular traffic area. $25\% \times 4.1 = 1.03 \text{ acres}/44,295 \text{ SF required}$	52,870 SF or 1.2 acres (29%)	Yes
Private Open Space	An average of 200 sq. ft. of usable open space shall be provided for each dwelling unit. $200 \times 78 = 15,600 \text{ sq.ft.} = 0.36 \text{ acres}$ 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	Private open space (balconies) = 22,330 sq.ft. = 30% of 44,295 + 11,250 sq. ft. decks and porches Total private open space = 286.3 SF/ unit Private balconies provided for each unit.	Yes

c. *The Project is consistent with the General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, above.

d. *The Project is consistent with the Transit Area Specific Plan (Milpitas Metro Specific Plan).*

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/MMSP, as demonstrated in Tables 3 and 4, below.

Table 3: TASP/MMSP Consistency

Policy	Conformance
Policy 3.4: <i>Provide a variety of housing types for different types of households, different income levels, different age groups, and different lifestyles.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels.
Policy 3.2: <i>Affordable housing units should be provided with new housing developments. Determine affordable unit requirements on a project-by project basis, considering the size of the project, the location of the site, and the mix of affordable units in the Midtown Area. Allow</i>	Consistent. The Project conforms to the City's Affordable Housing Ordinance and will designate 12 out of the 78 townhome units, or fifteen percent (15%) of the base number of units, for moderate-income level individuals or households.

Policy	Conformance
<i>housing developments of 12 units or less to pay a fee in lieu of providing affordable units.</i>	
Policy 3.3: <i>Affordable housing should be integrated into all residential projects.</i>	Consistent. The Project will provide affordable housing through inclusion and design. The applicant will restrict 12 residential units for sale to moderate-income individuals or households and integrate accessory dwelling units into 12 townhome condominiums, providing options in housing.

Table 4: Additional Development Standards Applicable in the TASP/MMSP

	Standard	Proposed	Conformance
Projections into Required Yards	Porches, stairs, balconies, bay windows, and awnings may project up to six feet into required setbacks.	Porches, stairs, balconies, bay windows and awnings project under 6' into required setbacks	Yes
Building Orientation and Entrances	Building must face the street, and primary building entrances must be oriented toward the street.	Buildings generally face Tarob Court which is the Project's primary street frontage	Yes
Vehicle Parking	Two to Three Bedroom – 42 spaces Four+ Bedroom – 135 spaces Guest Parking – 35 spaces Total – 212 spaces (146 covered, 66 uncovered)	156 resident spaces 35 guest spaces 191 Total (156 covered, 35 uncovered)	Yes, with approval of a Density Bonus waiver
Bicycle Parking	On-street guest racks equivalent to five percent (5%) of the parking requirement. Ten (10) bicycle parking spaces	Ten (10) bicycle parking spaces	Yes
Parking Location	Parking must be located so that it is not visible from the street.	78 private garage entrances face the interior drive aisle	Yes
Parking Garages attached to individual units	Garages may not occupy more than 50% of Ground Level Frontage facing street.	No parking garage is facing the street frontage.	Yes
Parking Access and Curb Cuts	Maximum two curb cuts per lot per street frontage	Two curb cuts along Journey Street and one on Tarob Court	Yes
Park Acreage Requirements	0.08 acres (after payment of TASP/MMSP fee)	0.34 acres	Yes

Furthermore, as the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

SECTION 5. Conditional Use Permit Findings (Milpitas Municipal Code Section XI-10-57.04(F))

The City Council makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP22-0002:

- a. The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.*

The Project will not be detrimental or injurious to property or improvements in the vicinity or public health, safety, or general welfare. The Project is consistent with other multi-family residential projects within the TASP and conditioned to preserve the health and wellness of future residents. In addition, the condominium project creates housing opportunities and increases the diversity of housing types in the TASP area by utilizing accessory dwelling unit provisions.

- b. The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 2, above. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone. Therefore, a conditional use permit is required to allow the subdivision of the proposed townhome units.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD3 standards are needed, the applicant has requested waivers and parking exceptions pursuant to the State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

- c. The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, above.

- d. The Project is consistent with the Transit Area Specific Plan (Milpitas Metro Specific Plan).*

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/MMSP, as demonstrated in Tables 3 and 4, above. As the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

SECTION 6. Density Bonus Permit (Milpitas Municipal Code Section XI-10-54.15(D))

The City Council makes the following findings based on the evidence in the public record in support of Density Bonus Permit No. DB22-0001:

- 1. The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The proposed Project includes 78 townhome condominiums and 12 accessory dwelling units, equaling 90 dwelling units per acre, meeting the General Plan density allowed in the immediate area.

2. *All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Redevelopment Agency modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

The applicant has proposed one two-bedroom, three three-bedroom, six four-bedroom, and two four-bedroom with ADUs as affordable units reserved for moderate-income households, in order to meet the requirement to develop fifteen percent (15%) of the total residential units into affordable units, which equates to 12 units. The approximate locations for the proposed 12 units have been identified and approved by the Housing Department as being adequately dispersed throughout the site.

3. *Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project has been conditioned to provide an agreement to the City of Milpitas explaining the affordability requirements, processes and procedures, to the satisfaction of the Milpitas City Attorney prior to the release of any Certificate of Occupancy.

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Prior to final building inspection and occupancy for the Project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements, including continued affordability for moderate-income households. The agreement shall be approved by the Milpitas City Attorney prior to recordation.

5. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The standard is not applicable to the Project, as the Project is creating townhome condominiums for sale, rather than for rent. Affordability provisions will be assessed on the sale of the individual condominium.

6. *Relation to Statute. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code section 65915, et seq.*

Any density bonus requirements not specified in the City's Municipal Code shall be governed by the State Density Bonus Law, Government Code Section 65915, et seq.

Density Bonus Concessions, Incentives and Waivers

In accordance with California Government Code Section 65915 and MMC Section X-10-54.15, the City may grant the requested incentives/concessions unless the City can make either of the following findings in writing and based on substantial evidence:

- a. *The concession is not required in order to provide for affordable housing costs as defined in State Health and Safety Section 50052.2 or for rents for the affordable units pursuant to Section XI-10-54.15(D)(5), Standards, of Chapter 10 (Zoning) of the Milpitas Municipal Code.*
- b. *The concession would have a specific adverse impact as defined in State Government Code Section 65589.5(d) (2) upon the public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.*

If findings cannot be made, then the proposed concessions/incentives and waivers must be granted, based on the requirements of the City's Municipal Code and California Government Code Sections 65915 – 65918.

The City does not have substantial evidence to demonstrate that the concessions/incentives and waivers described in Table 5 would fail to result in actual and identifiable cost savings, and/or that these savings are unnecessary to provide the level of affordability proposed. Moreover, the City has no substantial evidence that any of the requested concessions, incentives or waivers would result in any specific, adverse impacts to public health, safety, the physical environment, or historical resources. Accordingly, the City Council hereby approves such requested concessions/incentives and waivers.

Table 5: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
Waiver	Number of Compact Parking Spaces	A request to construct 17 of the 35 onsite guest spaces (49%) as compact stalls, when a maximum of 40% (14 stalls) is allowed per MMC.	A greater number of compact stalls is necessary in order to provide the required number of guest spaces.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
Waiver	90-Degree Stall Depth	To construct 90-degree guest parking stalls with a stall width of 9 feet and stall depth of 16 feet, where 9 feet and 18 feet are required	A reduction in the 90-degree guest parking stall depth is necessary in order to physically construct the proposed development.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
Parking Waiver	Vehicle Parking Reduction	To provide 191 vehicle parking spaces where 212 vehicle parking spaces are required per MMC.	The State Density Bonus Law provides a reduction in the minimum parking requirements for qualifying projects	The State Density Bonus Waiver allows a waiver of minimum parking standards, which must be granted by the City

SECTION 7. Severability

If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held incorrect, invalid, illegal, or unenforceable, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared incorrect, invalid, illegal, or unenforceable.

SECTION 8. City Council Approval

The City Council hereby approves Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006, and Environmental Assessment No. EA22-0003 (subject to the Conditions of Approval attached hereto and incorporated herein as **Exhibit 1** and CEQA Exemption Memorandum incorporated as **Exhibit 2**), based on the above findings.

PASSED AND ADOPTED this ____ day of _____ 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

**CONDITIONS OF APPROVAL
TOLL BROTHERS TOWNHOMES RESIDENTIAL DEVELOPMENT**

**SITE DEVELOPMENT PERMIT NO. SD22-0006
CONDITIONAL USE PERMIT NO. UP22-0002
VESTING TENTATIVE MAP NO. MT22-0002
DENSITY BONUS PERMIT NO. DB22-0001
TREE REMOVAL PERMIT NO. TR22-0006
ENVIRONMENTAL ASSESSMENT NO. EA22-0003**

GENERAL CONDITIONS

1. General Compliance: The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. **SITE DEVELOPMENT PERMIT SD22-0006, CONDITIONAL USE PERMIT UP22-0002 VESTING TENTATIVE MAP MT22-0002, DENSITY BONUS PERMIT NO. DB22-0001, TREE REMOVAL PERMIT NO. TR22-0006 and ENVIRONMENTAL ASSESSMENT EA22-0003** (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
2. Effective Date: Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.
3. Acceptance of Permit: Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration: Pursuant to Section XI-10-64-06 of the Milpitas Municipal Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Municipal Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:
 - a. Completes a foundation associated with the Project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
5. Time Extension: Pursuant to Section XI-10-64.07 of the Milpitas Municipal Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Project Job Account: If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**

7. Notice: Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).
8. Cost and Approval: Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. **(ALL)**
9. Conditions: Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Project is operating under the permits and approvals in this Resolution. **(ALL)**
10. Compliance with Laws: The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. **(CAO/P/E/B)**
11. Indemnification: To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including, but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT22-0002, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.
12. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
13. Revocation, Suspension, Modification: This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code.
14. Severability: If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding and fully enforceable.
15. Response to Conditions of Approval: Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**
16. Compliance with Fire Department and California Fire Code: The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and re-approval by the Fire Department. **(F)**

17. **Development in Conformance with Approved Plans:** Permittee shall develop the approved Project in conformance with the plans dated October 7, 2022 and approved by the City Council on February 7, 2023. in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review, and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

PLANNING CONDITIONS

18. **Landscape:** All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance.
19. **Street Lights:** Permittee shall provide or relocate street lighting along all street frontages subject to the review and approval of the Planning Department. Permittee shall likewise install pedestrian scale lights along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.
20. **Parking:** Parking shall be provided as depicted on the Site Plan approved by the City Council and shall consist of the following:
- a. **RESIDENT:** A total of 156 vehicle spaces within unit parking garages.
 - b. **GUEST:** A total of 35 vehicle spaces are to be provided on site.
21. **Bicycle Racks:** A total of ten (10) short-term bicycle parking spaces shall be installed on the site.
22. **Trees:** The project will remove 55 ordinance-sized trees and replace with approximately 196 trees, in conformance with the plans approved by City Council on February 7, 2023.
23. **Public Art Requirement:** Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. Fee shall be no less than one-half of one percent of building development costs and shall be payable at time of building permit issuance.
24. **Affordable Housing Requirement:** Permittee shall comply with the City's Affordable Housing Ordinance, as set forth in Milpitas Municipal Code Section XI-1-3.00. 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, unless otherwise remedied by the City Council.
25. **Affordable Housing Agreement:** Prior to the issuance of a building permit 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 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.

PLANNING & BUILDING PROJECT-RELATED TASP MITIGATION MEASURES & REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

26. **Nesting Birds:** To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. If active nests are found, the results of the surveys will be forwarded to the U.S. Fish

and Wildlife Services (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance practices adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required. **(P)**

Noise (TASP Policy 5.10))

27. Noise Insulation: Prior to issuance of any building permit, Permittee shall demonstrate that the Project will meet the required 45 dBA maximum interior noise standard.

Air Quality (TASP Policy 5.16)

28. Dust Control Emissions: During the construction of the Project, Permittee shall comply with all of the following:
- All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand or other loose material off the site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(B)**
29. ROG Emissions: Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, using paint that contains 125 grams per liter of VOC or less, the use of prefabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(B)**

ENGINEERING CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

32. Modifications: The Site Development Plan dated October 7, 2022 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
33. Solid Waste and Recycling Handling Plan: Permittee shall submit final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Solid Waste Program. The Plan shall show calculations of waste generation volumes and how materials will be transferred from the waste generation areas to the trash enclosure/external collection point; demonstrate how recycling, food waste, and yard trimmings shall have

a separately maintained process from garbage handling; address other requirements such as waste generation a compactor sizing, chute shut-off and property management responsibility for bin management and litter control; outreach and education to tenants/occupants, and procure sufficient service frequency based upon waste generation calculation volumes.

34. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
35. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along Tarob Court, Journey Street and Trade Zone Boulevard that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
36. Recycle Water Cross-Connection Specialist: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all landscape submittal plans.
37. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
38. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be determined based on the public improvement cost estimates as prepared by the Permittee's engineer.
39. Coordination with other Projects: Permittee shall coordinate designs with 2001 Tarob Court in advance prior to any plan submittal.
40. Coordination with other Jurisdictions: Permittee shall coordinate designs, particularly along Trade Zone Boulevard, with City of San Jose in advance prior to any plan submittal.

PRIOR TO FINAL MAP APPROVAL/RECORDATION

*The following conditions shall be addressed during the final map plan check process and shall be met **prior to** any final approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

38. Dedication on the Final Map: Permittee shall dedicate necessary emergency vehicle access easements, public service utility easements, street easements, public access easement and other public easements deemed necessary for the project.
39. Abandonment/Quitclaim Easements: Permittee shall abandon/quit claim existing easements that are in conflict with or unnecessary for the project.
40. Partial Street Vacation: This project is subject to and contingent upon partial vacation on Tarob Court.
41. Easements on the Final Map: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on the final map.

42. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
43. Street Name Approval: Permittee shall obtain approval from the City Council for all new street names based upon recommendation from the Planning Commission and City guidelines.
44. Utility Company Approval: Permittee shall obtain written approval from utility companies (PG&E, AT&T, Comcast) for abandonment of existing and dedication of new public service utilities easements.
45. Demolition of Existing Building: Permittee shall demolish existing buildings/facilities that are in conflict with the new property lines.
46. Covenant, Conditions & Restrictions (CC&Rs): Permittee shall provide CC&Rs for City's review and approval for perpetual maintenance of private roadways, private utilities, stormwater management facilities in accordance with a separately recorded Stormwater Management Facilities Operation and Maintenance Agreement. There shall be provisions in the CC&Rs to retain a recycled water site supervisor with annual re-certification report to the City's Public Works Department.
47. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
48. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2008-1, and agree to pay the special taxes levied by the CFD 2008-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 42 notwithstanding.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

49. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
- Milpitas Design Guidelines: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - Standard details and specifications: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - Transit Area Specific Plan design guidelines: (http://www.ci.milpitas.ca.gov/_pdfs/engDesignGuidelines/en_dg_vi_transitAreaSpecific.pdf); and
 - Santa Clara County Roads and Airports (SCCRA) design guidelines (for improvements along Montague Expressway); and
 - Americans with Disabilities Act (ADA) requirements, where applicable.
50. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
51. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.

52. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
53. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit, unless otherwise specified by the City Engineer or his Designee.
- a) Underground any existing overhead facilities along the frontage of Trade Zone Blvd per MMC Title XI, Chapter 1, Section 7.02-2.
 - b) Installation of separate water service tap and meter for each of the following services: residential, irrigation, and fire.
 - c) Installation of separate utility service lines (domestic water, fire service, sanitary sewer) for residential.
 - d) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/maintenance/repair/replacement of subject radio antenna.
 - e) Removal and installation of new curb, gutter and sidewalk, signage and striping, and street lights along Tarob Court, Trade Zone Boulevard and Journey Street shall comply with the applicable TASP design standards and details.
 - f) Installation of Half street width grind and overlay along the project street frontage and extents of proposed Utility Work on Tarob Court with spot base repair as needed.
 - g) Provide base repair for all failed pavement areas and micro surface along the project frontage on Trade Zone Boulevard to the City Engineer's satisfaction.
 - h) Relocate the existing 12" Water Main along the frontage to avoid conflicts with the new street alignment. The permittee shall connect the new 12" water main to the existing 12" water main at both ends per City Standards. The existing water main shall be abandoned per the City's Abandonment Notes and to the City's satisfaction.
 - i) The project frontage along Trade Zone Blvd shall match the Traverse Development street section for consistency.
54. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
55. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
56. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
57. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

58. Pothole Encroachment Permit: Due to multiple new utility service connections along the project frontage, Permittee shall pothole and verify all potential utility crossing conflict as part of the public improvement plan during the design stage.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer). (E)*

59. Final Map Recordation: Permittee shall record the final map.
60. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
61. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).
62. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&Rs, if applicable.
63. Water Supply and Force Majeure. The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
64. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purpose, except for the interior courtyard/podium areas within the building footprint where the potable water shall be used for irrigation. Permittee shall comply with California Code of Regulations (CCR), Title 22, Division 4, Chapter 3, titled "Water Recycling Criteria", CCR, Title 17, Division 1, Chapter 5, Subchapter 1 titled "Drinking Water Supply" and all other recycled water regulations as listed under the publication titled "California Department of Public Health Regulations Related to Recycled Water June 18, 2014". Permittee shall obtain approval from the California State Water Resources Control Board/Division of Drinking Water, South Bay Water Recycling and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.
65. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 (Water Efficient Landscapes) for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
66. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
67. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
- What materials will be salvaged.
 - How materials will be processed during demolition.
 - Intended locations or businesses for reuse or recycling.

- d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.

Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.

68. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
69. Flood Plain Management: This project is in the Flood Zone "AO" with 1' average flood depth, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15. Permittee shall also submit a Flood Study for the Project demonstrating, to the satisfaction of the City Engineer, that the proposed development has no adverse impact to the surrounding flood plain within the Special Flood Hazard Area (SFHA) and to the flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood Elevation (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. The study shall clearly identify the lowest floor elevation as being either the bottom of garage, bottom of first floor residential units, bottom of elevator pit, etc. and shall be completely elevated out of the SFHA.
70. Mailboxes: The Permittee shall obtain information from the US Postal Services regarding placement of required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Department review
71. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "i" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
- a. Transit Area Specific Plan Development Fee at \$47,550/unit for residential uses. Based on approval for development of 78 units, the estimated Transit Area Specific Plan Development Impact Fee for this project is \$3,708,900 (\$47,550/unit x 78 units). TASP fees shall be paid prior to issuance of Building permit.
 - b. Parkland Impact Fee
 1. The project is required to dedicate 0.68 acres of parkland, equivalent to \$1,895,090 fees-in-lieu.
 2. The park portion of the TASP fee is valued at \$1,682,023.98, equivalent to 0.60 acres. This will be applied to the project parkland requirement.
 3. The applicant will receive credit for 0.08 acres of private recreation space on site. Upon demonstration of provision of this private recreation space to the satisfaction of the Direction of Planning or his/her designee, no additional parkland fees will be due, per table below.

Toll Brothers Townhomes Proposed	78	Item # 7.
Population Estimate (2.49 persons/unit)	194 persons	
TASP Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu	
Total Parkland Acreage or In-Lieu Fee Required	0.68 acres / \$1,895,090	
Amount Satisfied Through TASP Fees (Acreage/Dollars)	0.60 acres / \$1,682,023.98	
Remaining Parkland Acreage or In-Lieu Fee Required	0.08 acres / \$231,066.02	
Private Recreation/Open Space Included in the Project	0.34 acres	
Balance of Parkland Acreage or In-Lieu Fee Due	0.00 acres / \$0	

- c. Storm water connection fee at \$16,771/acre for residential.
- d. Water connection fee at \$1,164/unit for residential, based upon increased water usage.
- e. Sewer connection fee at \$1,406/unit for residential, based upon increased average wastewater flow.
- f. 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.
- g. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.
- h. Public Art Fee, as set forth in Milpitas Municipal Code Section XI-10-14.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

- 72. **Dewatering**: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
- 73. **On-site Recycle Water Coordination**: Permittee's cross-connection specialist shall coordinate the phasing of the construction; facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing; sign-off before the water meter set; coordinate on-site construction inspection; complete the site inspection; fill out required paperwork/questionnaire; and provide them to the City for forwarding to South Bay Water Recycling.
- 74. **Prohibition of Potable Water Usage**: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
- 75. **Construction Staging and Employee Parking**: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public rights-of-way or public easements.

76. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector and notify affected property owners/tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

77. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to Tarob Court, Journey Street and Trade Zone Boulevard, frontage improvements, and bicycle path, as shown on City approved plans.
78. LOMR-F: Permittee shall submit the FEMA approved LOMR-F for each unit/building associated with the requested occupancy, if project is located in the SFHA.
79. Elevation and/or Flood Proofing Certificate: Permittee's civil engineer shall submit Elevation and/or Flood Proofing Certificate for the lowest finished floor elevation of each building for City record.
80. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
81. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross connection test results and any special inspection checklist as required by the South Bay Recycling Program <http://www.sanjoseca.gov/index.aspx?NID=1595> and forward them to the City.
82. Record Drawings: Permittee shall submit record drawings in AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
83. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

LEGEND

P = Planning Department

B = Building Department

E = Engineering Department

F = Fire Department

CAO = City Attorney's Office

ALL = All Reviewing Departments

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

AGREEMENT

Item # 7.

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the Project property on the terms and conditions set forth in this resolution.

Dated: _____

Signature of Permittee

EXHIBIT 2

CEQA EXEMPTION MEMORANDUM

675 TRADE ZONE BOULEVARD INFILL ENVIRONMENTAL CHECKLIST

MILPITAS, CALIFORNIA



December 2022

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675 TRADE ZONE BOULEVARD PROJECT INFILL ENVIRONMENTAL CHECKLIST

MILPITAS, CALIFORNIA

Submitted to:

City of Milpitas
455 E Calaveras Boulevard
Milpitas, CA 95035

Prepared by:

LSA
157 Park Place
Pt. Richmond, California 94801
510.236.6810

Project No. MLP1902.12



December 2022

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LIST OF ABBREVIATIONS AND ACRONYMS

ADU	accessory dwelling units
APN	Assessor's Parcel Numbers
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BMPs	Best Management Practices
CAP	Climate Action Plan
CBC	California Building Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CGP	Construction General Permit
City	City of Milpitas
CLOMR-F	Conditional Letter of Map Revision
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
General Plan EIR	The City of Milpitas' 2040 General Plan Final Environmental Impact Report
GHG	Greenhouse Gas
I-680	Interstate 680
I-880	Interstate 880
LID	Low Impact Development
LOMR-F	Letter of Map Revision
MMSP	Milpitas Metro Specific Plan
MRP	Bay Area Municipal Regional Stormwater Permit

NAHC	Native American Heritage Commission
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
OPR	Governor's Office of Planning and Research
PCBs	polychlorinated biphenyls
PDA	Priority Development Area
R3	Multi-Family High Density Residential
SCVWD	Santa Clara Valley Water District
SWPPP	Storm Water Pollution Prevention Plan
TAC	toxic air contaminant
TASP	Transit Area Specific Plan
TOD	Transit Oriented Development
USFWS	U.S. Fish and Wildlife Service
VMT	Vehicle Miles Traveled
VTa	Valley Transportation Authority

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1.0 INFILL ENVIRONMENTAL CHECKLIST

Pursuant to California Public Resources Code Sections 21083.3, 21094.5, and CEQA Guidelines Section 15183.3.

1. Project Title:

675 Trade Zone Boulevard Project

2. Lead Agency Name and Address:

City of Milpitas
455 E Calaveras Boulevard
Milpitas, CA 95035

3. Contact Person and Phone Number:

Lillian VanHua, Senior Planner
(408) 586-3073

4. Project Location:

675 Trade Zone Boulevard and 1951 Tarob Court
Milpitas, CA 95035

5. Project Sponsor's Name and Address:

Toll Brothers
6800 Koll Center Parkway, Suite 320
Pleasanton, CA 94566

6. General Plan Designation:

Milpitas Metro Specific Plan (MMSP)

7. Zoning:

Multi-Family High Density Residential (R3), Transit Oriented Development (TOD) Overlay

8. Prior Environmental Document(s):

- Draft Environmental Impact Report – 2040 Milpitas General Plan (SCH No. 2020070348), November 2020.
- Draft Environmental Impact Report, Milpitas Transit Area Specific Plan (SCH No. 2006032091), October 2007.

9. Location of Prior Environmental Document(s):

City of Milpitas, Planning Department
455 E. Calaveras Boulevard
Milpitas, CA 95035

10. Description of Project:

The proposed project would include the demolition of the existing buildings and improvements on the project site and the construction of 13- three-story buildings that would contain 78 townhomes units with 12 accessory dwelling units (ADUs), for a total of 90 residential units. A total of 12 townhome-style condominium units would be affordable to moderate incomes, as determined by the California Department of Housing and Community Development. See Section 3.0, Project Description, for a complete description of the proposed project.

11. Surrounding Land Uses and Setting:

The approximately 4.1-acre project site is located at 675 Trade Zone Boulevard and 1951 Tarob Court in the southern portion of the City of Milpitas. The project site is located within a light industrial area bordered to the north by commercial uses and Tarob Court, to the west by Journey Street, to the south by Trade Zone Boulevard, and to the east by Tarob Court and Lundy Avenue. The Milpitas Bay Area Rapid Transit (BART) station and Montague Valley Transportation Authority (VTA) light rail station are approximately 0.35 miles north of the project site. See Section 3.0, Project Description, for a complete description of the project site and surrounding land uses.

12. Other Public Agencies Whose Approval is Required:

None

2.0 INFILL PERFORMANCE STANDARDS

California Environmental Quality Act (CEQA) Guidelines Section 15183.3(b) and CEQA Guidelines Appendix M establish eligibility requirements for projects to qualify as infill projects for streamlined environmental review. The below information demonstrates that the proposed infill project satisfies the eligibility criteria of CEQA Guidelines Section 15183.3(b) as well as the performance standards in Appendix M. Therefore, the Infill Environmental Checklist may be used to evaluate the potential project impacts under CEQA.

2.1 CEQA GUIDELINES SECTION 15183.3(B)(1) CRITERIA

Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter. For the purpose of this subdivision, "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved right-of-way.

A "qualified urban use" is defined in PRC Section 21072 as "any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses." The project site is currently developed with industrial buildings that include manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees. The site is located in an urban area, has been previously developed, and is surrounded by development on all sides.

2.2 CEQA GUIDELINES SECTION 15183.3(B)(2)

Satisfy the performance standards in Appendix M, as documented on the Infill Checklist N.

1. *Does the non-residential infill project include a renewable energy feature? If so, describe below. If not, explain below why it is not feasible to do so.*

The only use included in the proposed project is residential which, although not required, is encouraged to provide renewable energy features. The buildings would be all-electric and solar-ready.

2. *If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, either provide documentation of remediation or describe the recommendations provided in a preliminary endangerment assessment or comparable document that will be implemented as part of the project.*

The project site is not included on any list of facilities or sites compiled pursuant to Section 65962.5 of the Government Code (i.e., the Cortese List).¹ The project site does not have any known contamination.

¹ California Environmental Protection Agency. 2022. Cortese List Data Resources. Website: <https://calepa.ca.gov/sitecleanup/corteselist/> (accessed October 27, 2022).

3. *If the infill project includes residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high volume roadway or other significant source of air pollution, as defined in Appendix M, describe the measures that the project will implement to protect public health. Such measures may include policies and standards identified in the local general plan, specific plans, zoning code or community risk reduction plan, or measures recommended in a health risk assessment, to promote the protection of public health. Identify the policies or standards, or refer to the site-specific analysis, below.*

The project would not include residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high-volume roadway or other significant source of air pollution. High-volume roadways are defined as freeways, highways, or urban roads with traffic volumes of at least 100,000 vehicles per day, or rural roads with 50,000 vehicles per day. There are no major roadways with volumes greater than 100,000 vehicles per day within 500 feet of the project site. The project site is approximately 3,800 feet west of Interstate 680 and 4,900 feet east of Interstate 880, which are the closest roadways that would qualify. Additionally, none of the roadways within the vicinity of the project site are designated as rural roadways in the City's General Plan.

4. *For residential projects, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☒ *Located within ½-mile of an existing major transit stop or an existing stop along a high-quality transit corridor.*
- ☐ *Consists of 100 or fewer units that are each affordable to low income households. (Attach evidence of legal commitment to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.)*

Appendix M of the CEQA Guidelines defines a "Major Transit Stop" as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. The project site is located approximately 0.3 mile south of the Milpitas Bay Area Rapid Transit (BART) station and Montague Valley Transportation Authority (VTA) light rail station. Therefore, the project site is located within one half mile of a major transit stop.

5. *For commercial projects with a single building floor-plate below 50,000 square feet, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☐ *The project is within ½-mile of 1,800 dwelling units.*

This performance standard is not applicable. The proposed project does not include any commercial uses.

6. *For office building projects, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☐ *Located within ¼-mile of an existing major transit stop.*

This performance standard is not applicable. The proposed project does not include any office uses.

7. *For school projects, the project does all of the following:*

- ☐ *The project complies with the requirements in Sections 17213, 17213.1, and 17213.2 of the California Education Code.*
- ☐ *The project is an elementary school and is within 1 mile of 50 percent of the student population, or is a middle school or high school and is within 2 miles of 50 percent of the student population. Alternatively, the school is within ½-mile of an existing major transit stop or an existing stop along a high-quality transit corridor. (Attach map and methodology.)*
- ☐ *The project provides parking and storage for bicycles and scooters.*

This performance standard is not applicable. The proposed project is not a school project.

8. *For small walkable community projects, the project must be a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.*

CEQA Guidelines Section 15183.3(f)(5) defines a “Small Walkable Community Project” as a project that is all of the following: 1) In an incorporated city that is not within the boundary of a metropolitan planning organization; 2) Within an area of approximately one-quarter mile diameter of contiguous land that includes a residential area adjacent to a retail downtown area and that is designated by the city for infill development consisting of residential and commercial uses. A city may designate such an area within its general plan, zoning code, or by any legislative act creating such a designation, and may make such designation concurrently with project approval; and 3) either a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both. The project site is located within the boundary of the Metropolitan Transportation Commission, which is the metropolitan planning organization for the nine-county Bay Area. Therefore, the proposed project is not a small walkable community project, as defined by CEQA Guidelines Section 15183.3(f)(5), and this performance standard is not applicable.

2.3 CEQA GUIDELINES SECTION 15183.3(b)(3)

Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning

strategy, except as provided in [the following] subdivisions [...]. (The subdivisions have been omitted as they are not applicable to the proposed project.)

The adopted Plan Bay Area (2050) serves as the Sustainable Communities Strategy for the Bay Area, per Senate Bill 375. Plan Bay Area's core strategy is to focus growth within existing communities along the existing transportation network. The project site is located within a Priority Development Area (PDA) in Plan Bay Area, which are areas identified for housing and job growth. As noted above, the proposed project would consist of redevelopment of the project site with residential uses along the existing transportation network. The proposed project is consistent with the 2040 Milpitas General Plan and Transit Area Specific Plan (TASP) as discussed in Section 6.11, Land Use and Planning of this Infill Environmental Checklist.

3.0 PROJECT DESCRIPTION

The following describes the proposed 675 Trade Zone Boulevard Project (project). The project site is located within the planning area for the Milpitas Transit Area Specific Plan (TASP).² In addition to the description of the proposed project itself, this section includes a summary description of the proposed project's location, existing site characteristics, required approvals, and entitlements.

This attachment is part of the preparation of an Infill Environmental Checklist prepared pursuant to the California Environmental Quality Act (CEQA) to allow development of the proposed project. The City of Milpitas (City) is the CEQA lead agency for the project.

3.1 PROJECT SITE

The following section describes the project location, existing conditions, surrounding land uses, and the regulatory setting.

3.1.1 Project Location

The project site is located in the southern portion of the City of Milpitas, just north of the border with the City of San José. The approximately 4.1-acre project site is located at 675 Trade Zone Boulevard and 1951 Tarob Court (Assessor's Parcel Numbers [APN's] 086-36-033 and 086-36-045).

Regional vehicular access to the project site is provided by Interstate 880 (I-880) to the west and Interstate 680 (I-680) to the east of the project site. The Milpitas BART station and VTA light rail station are approximately 0.35 miles north of the project site. Figure 1 shows the regional and local context of the project site. Figure 2 depicts an aerial photograph of the project site and surrounding land uses (all figures are provided at the end of this Attachment A).

3.1.2 Existing Conditions

The generally level project site is currently developed with two single-story industrial buildings that include manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees.

3.1.3 Surrounding Land Uses

The project site is located within a light industrial area of Milpitas that was previously predominantly developed with commercial office parks and other buildings for industrial and commercial uses. The project site is bordered to the north by commercial uses and Tarob Court, to the west by Journey Street, to the south by Trade Zone Boulevard, and to the east by Tarob Court and Lundy Avenue. The project site is in close proximity to the Great Mall shopping center in Milpitas, approximately 0.5 miles north of the project site.

² Milpitas, City of. 2008. *Milpitas Transit Area Specific Plan*. June. Amended December 2011.

3.1.4 Regulatory Framework

The City adopted the 2040 Milpitas General Plan on March 9, 2021, which replaced the General Plan adopted in 1994. The 2040 General Plan Land Use Map designates the project site as Milpitas Metro Specific Plan (MMSP), which is intended to create a structure for a walkable, transit-oriented area with a mix of land uses. The project site is zoned Multi-Family High Density Residential (R3) with a Transit Oriented Development (TOD) Overlay. The purpose of the R3 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. The R3 zone allows residential uses at a density of 12-20 units per acre. The TOD Overlay District is intended 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.

The project site is also located within the TASP. The TASP is a guide for development and redevelopment of the southern, light industrial corridor of Milpitas that is located in the vicinity of the BART station. The goal of the TASP is to create an attractive and livable neighborhood that is within walking distance to BART and to transform the older, light industrial district to meet high demand for housing, offices and shopping in Milpitas. The TASP was designed to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region. The proposed project would be located near the Milpitas BART station and supports the objectives of the TASP. The TASP FEIR was certified in 2008 and evaluates the environmental impacts of 7,100 units of residential development, a population increase of 18,000 new residents, the creation of 4,200 new jobs and development of 1 million square feet of office space, 285,000 square feet of retail space, and 175,000 square feet of hotels.

The TASP planning area is nearing the planned buildout identified in the TASP FEIR. The public review draft of the MMSP was made available for comment in late 2021, and is anticipated to be adopted by February 2023, at which point the MMSP would supersede the TASP.

3.2 PROPOSED PROJECT

The proposed project would include a tentative map to subdivide the entire project site into 14 separate lots. The project sponsor, Toll Brothers, proposes to demolish the existing buildings and improvements on the site and construct 13 three-story buildings that would contain 78 townhome units with 12 accessory dwelling units (ADUs), for a total of 90 residential units on the project site. Each building would be a maximum of 34 feet and 6 inches in height to the top of the roof. Associated circulation, parking, landscaping, and infrastructure improvements would also be developed. The buildings would be all-electric and solar-ready. To allow for development of the proposed project, the City would vacate an approximately 743-square-foot portion of Tarob Court. Figure 3 shows a conceptual site plan, Figure 4 shows typical conceptual building elevations, Figure 5 shows typical conceptual building sections, and Figure 6 shows the proposed landscape plan.

Table A.1 shows the housing units and population assumptions evaluated within the TASP FEIR, the number of approved units and under construction units and inclusion of the proposed project. As shown, the development associated with the proposed project is within the amount of growth evaluated and cleared within the TASP FEIR.

Table 3.A: Existing and Proposed Housing Units and Population within the TASP Area

	Evaluated Within the TASP FEIR	Approved and Pending	Proposed Project	Remaining Development Available
Housing Units	7,109 ^a	6,863	90	156
Population	17,915 ^a	17,295 ^b	227 ^b	393 ^b

Source: Riley, Kevin, 2022. Metro Plan (TASP) Manager, Planning Department, City of Milpitas. February 7.

^a Milpitas, City of, 2008. Final Transit Area Specific Plan EIR. This total does not include the 468 units associated with The Crossings.

^b Estimated population associated with approved units, under construction units, and the proposed project was determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).

3.2.1 Building Program

As noted above, the proposed project would consist of 13 three-story buildings that would contain 78 townhome units with 12 accessory dwelling units (ADUs), for a total of 90 residential units on the project site. The proposed project would consist of eight two-bedroom units that would be approximately 1,256 square feet in size, 24 three-bedroom units that would be approximately 1,901 square feet in size, and 52 four-bedroom units that would range from 1,905 to 2,211 square feet in size. The 12 ADUs would be located within the four-bedroom units and would range from 287 to 632 square feet in size. A total of 12 townhome-style condominium units would be affordable to moderate incomes, as determined by the California Department of Housing and Community Development, specifically based on Santa Clara County median income levels (adjusted for family size). Prior to building permit issuance, an executed agreement imposing appropriate rental restrictions on the affordable units would be required.

3.2.2 Landscaping and Open Space

The proposed project would include a total of 52,870 square feet of common open spaces and 11,250 square feet of private open space. Common open space on the project site would consist of walkways, community dining areas, and seating areas with turf. Private open space would consist of useable decks. Landscaping and bio-retention areas would also be provided around the site's perimeter and throughout the site between buildings, as shown in Figure 3. A total of 82 trees would be removed during construction of the proposed project, and up to 136 new trees would be planted.

3.2.3 Access, Circulation and Parking

As shown in Figure 3, vehicular access to the project site would be provided at five entry points, three of which would be located along Journey Street on the west side of the site, one at Tarob Court at the northeastern side of the site, and one at Trade Zone Boulevard on the south side of the site. Interior streets would provide vehicular access to each of the residential units. Each of the townhome units would have a two-car garage, for a total of 156 covered parking spaces, all of which would be accessible from the internal roadway. An additional 35 street parking spaces would be provided throughout the site for a total of 191 parking spaces. The proposed project would also include 10 short-term bicycle parking spaces through the site.

3.2.4 Utilities and Infrastructure

The proposed project would require utility services including water, wastewater, storm drain, gas, electrical, and telecommunications. The proposed project would connect to existing utilities via tie-ins on Tarob Court, Journey Street, and Trade Zone Boulevard, including connections to 10- and 12-inch water lines; 8- and 10-inch wastewater lines; 18-, 24-, and 54-inch storm drain lines; and a connection to the existing joint utility trench for gas and electrical service.

The project site currently includes a total of 141,900 square feet of impervious surface area (80 percent). The proposed project would result in a decrease in impervious surface area on the project site of 10,700 square feet. Roofs, roads, concrete driveways and other infrastructure would result in a total of 147,023 square feet of impervious surfaces (82 percent of the site). The project site will include 30 drainage management areas with 30 bio-retention areas that will treat and handle stormwater flows prior to discharge to the City's stormwater drainage system.

3.2.5 Project Construction

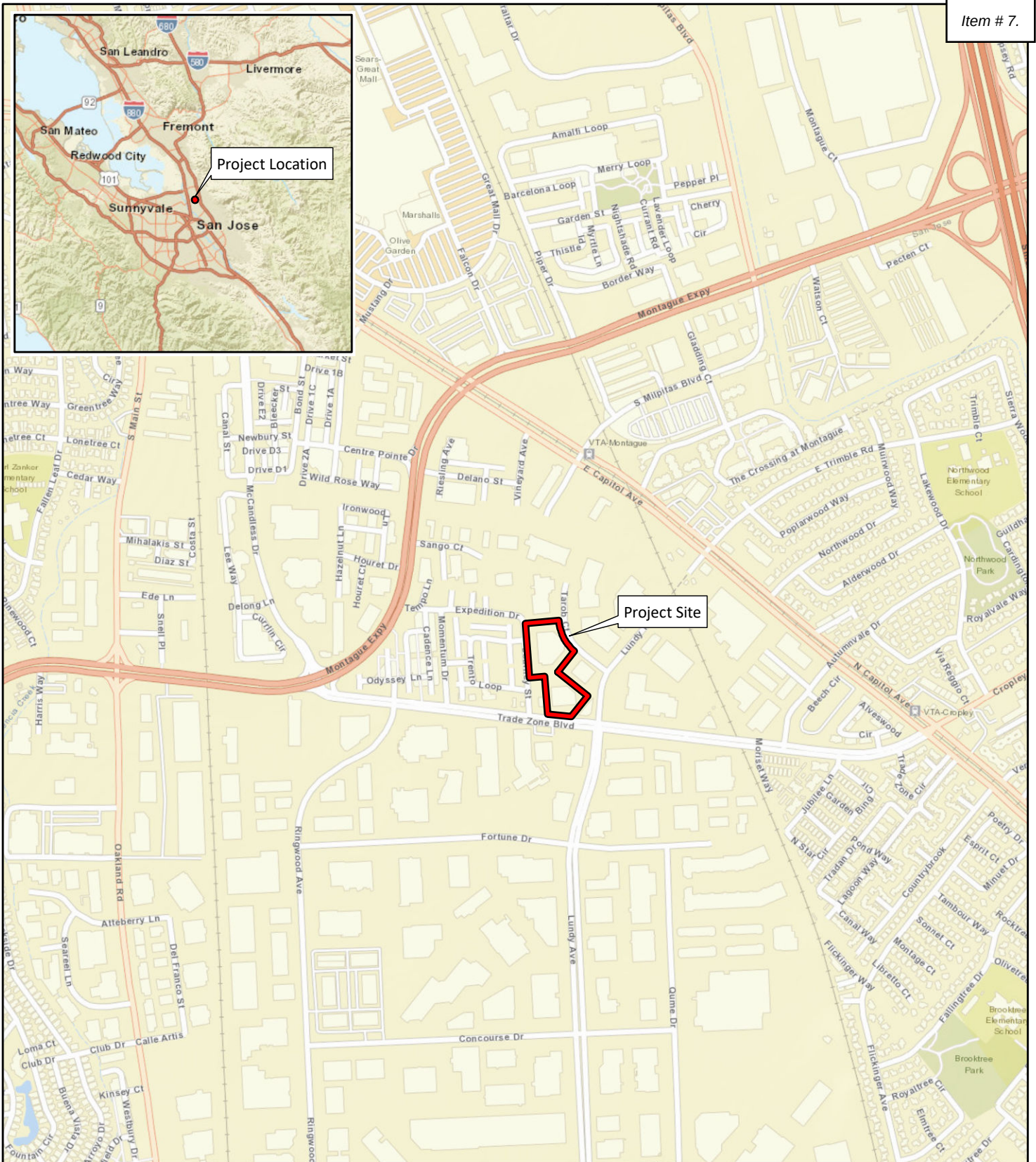
Subsurface excavations for the foundations and utilities would likely occur to a depth of feet. It is anticipated that a total of 5,500 cubic yards of soil would be cut and 16,100 cubic yards would be used for fill. A total of approximately 7,000 tons of construction debris are anticipated to be removed from the project site during demolition of the existing buildings. The construction period is anticipated to begin in by date and would occur over an approximately 48-month period. Occupancy of the units could occur as early as Spring 2025.

3.3 AMENDMENTS AND PERMITS

As previously discussed, the proposed project involves an application for a specific development proposal for 675 Trade Zone Boulevard. As part of the proposed project evaluated in this Infill Environmental Checklist, the following approvals and permits would be required:

- Site Development Permit
- Conditional Use Permit
- Vesting Tentative Map
- Density Bonus Application
- Tree Removal Permit
- Demolition Permit
- Building Permit

The project applicant is also requesting use of the density bonus to reduce the amount of parking required. In addition, the project applicant is requesting a waiver to exceed the maximum of 40-percent compact stalls and reduce the stall depth of 90-degree guest parking stalls.

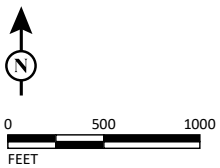


LSA

LEGEND

 Project Site

FIGURE 3-1



SOURCE: Esri Street Base (2022)

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675 Trade Zone Boulevard Project
Regional Location and Project Vicinity Map



LSA

LEGEND

 Project Site



0 125 250
FEET

SOURCE: Google Imagery (2022)

I:\MLP1902.12\GIS\MXD\Project Site.mxd (10/19/2022)

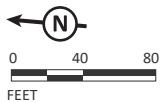
FIGURE 3-2

675 Trade Zone Boulevard Project
Project Site and Surrounding Land Uses



FIGURE 3-3

LSA



SOURCES: Tarob - Geomax, July 21, 2022

I:\MLP1902.12\G\Proposed Conceptual Site Plan.ai (10/18/2022)

675 Trade Zone Boulevard Project
Proposed Conceptual Site Plan



RIGHT ELEVATION

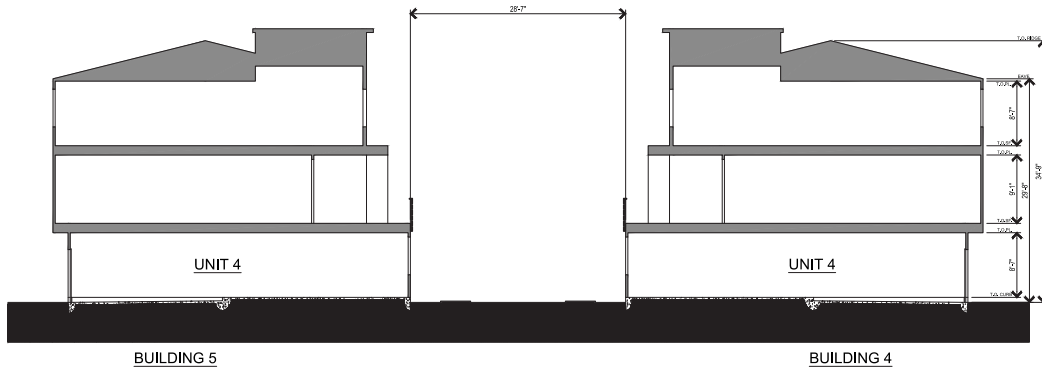


FRONT ELEVATION

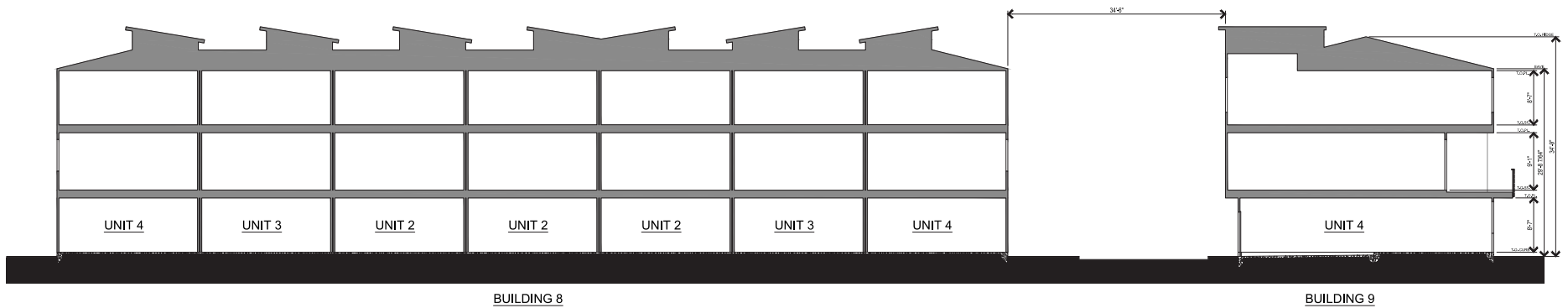
LSA

FIGURE 3-4





TYPICAL BUILDING SECTION



TYPICAL BUILDING SECTION

LSA

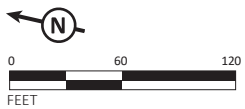
FIGURE 3-5





FIGURE 3-6

LSA



SOURCES: Tarob - Geomax, July 21, 2022

I:\MLP1902.12\G\Proposed Landscape Plan.ai (10/18/2022)

675 Trade Zone Boulevard Project
Proposed Landscape Plan

4.0 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist in Chapter 6.0.

- | | | |
|--|---|---|
| ☐ Aesthetics | ☐ Agriculture and Forestry Resources | ☐ Air Quality |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Energy |
| ☐ Geology/Soils | ☐ Greenhouse Gas Emissions | ☐ Hazards & Hazardous Materials |
| ☐ Hydrology/Water Quality | ☐ Land Use/Planning | ☐ Mineral Resources |
| ☐ Noise | ☐ Population/Housing | ☐ Public Services |
| ☐ Recreation | ☐ Transportation | ☐ Tribal Cultural Resources |
| ☐ Utilities/Service Systems | ☐ Wildfire | ☐ Mandatory Findings of Significance |

4.1 DETERMINATION

On the basis of this initial evaluation:

- ☒ I find that the proposed infill project WOULD NOT have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. A Notice of Determination (Section 15094) will be filed.
- ☐ I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. With respect to those effects that are subject to CEQA, I find that such effects WOULD NOT be significant and a NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared
- ☐ I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that although those effects could be significant, there will not be a significant effect in this case because revisions in the infill project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared.
- ☐ I find that the proposed infill project would have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that those effects WOULD be significant, and an infill ENVIRONMENTAL IMPACT REPORT is required to analyze those effects that are subject to CEQA.

Signature

Date

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5.0 STREAMLINING PER CEQA GUIDELINES SECTION 15183.3

CEQA Guidelines Section 15183.3 allows lead agencies to streamline the environmental review process for eligible infill projects by limiting the topics subject to environmental review at the project level as follows:

1. If an effect was addressed as a significant effect in a prior EIR for a planning level decision (such as the General Plan, Development Code Project, or Housing Element), then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
2. An effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

The City of Milpitas' 2040 General Plan Final Environmental Impact Report (General Plan EIR),³ which was certified in 2021 and the Final Environmental Impact Report for the Milpitas Transit Area Specific Plan,⁴ which was certified in 2008 both analyzed environmental impacts associated with adoption and implementation of associated buildout projections at a programmatic level. Both documents (which are herein collectively referred to as the "Previous CEQA Documents") are incorporated by reference in their entirety into this Infill Checklist pursuant to Section 15150 of the CEQA Guidelines and available on the City's website at:

<https://www.milpitas.gov/milpitas/departments/environmentaldocuments/#1629996709619-7934a6ef-4561>.

The Previous CEQA Documents are "planning level decisions" as defined by CEQA Guidelines Section 15183.3(f)(2), i.e., an "enactment or amendment of a general plan or any general plan element, community plan, specific plan, or zoning code." Accordingly, the General Plan and TASP are the planning level decisions that are the basis for the use of the Infill Exemption under CEQA Guidelines Section 15183.3 with regard to the environmental analysis of the proposed project.

Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3 (Streamlining for Infill Projects) allow streamlining for certain qualified infill projects by limiting the topics subject to review at the project level, if the effects of infill development have been addressed in a planning level decision, or by uniformly applicable development policies. As described in Section 2.2, Appendix M Checklist Performance Standards, an infill project is eligible if the project: (1) is located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter; (2) satisfies the performance standards provided in CEQA Guidelines Appendix M, as documented on the Infill Project Checklist in Appendix N; and (3) is consistent with the general use designation, density, building intensity, and

³ Milpitas, City of, 2020. *Draft Environmental Impact Report for the Milpitas General Plan Update*. November 2.

⁴ Milpitas, City of, 2007. *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*. October.

applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy.

No additional environmental review is required if the infill project would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects. Consistent with CEQA Guidelines Section 15183.3, which allows streamlining for qualified infill projects, this Infill Checklist is limited to topics applicable to project-level review only. The analysis in the Previous CEQA Documents, described below, is applicable to the project. Therefore, the proposed project meets the requirements for an infill exemption.

5.1 PREVIOUS CEQA DOCUMENTS

The 2040 General Plan identifies goals, policies, a land use diagram and other graphics and maps (e.g., open space systems, a transportation network and public facilities) to guide future development within the city's boundaries through the year 2040. The General Plan EIR is designated a "Program EIR" under CEQA Guidelines Sections 15183 and 15183.3. As such, subsequent activities under the 2040 General Plan are subject to requirements under each of the EIR CEQA Sections, which are described further in Section 6.0 of this document.

The TASP sets the framework for land use, streets, and open space for the redevelopment of an approximately 437-acre area in the southern portion of the city that currently includes a number of industrial uses with 7,109 dwelling units, 993,843 square feet of office space, 340 hotel rooms, and 287,075 square feet of retail space centered around the Milpitas BART station and the VTA Light Rail System. The TASP EIR is designated a "Program EIR" under CEQA Guidelines Sections 15183 and 15183.3. As such, subsequent activities under the TASP are subject to requirements under each of the EIR CEQA Sections, which are described further in Section 6.0 of this document.

The proposed project is within the development assumptions envisioned by the General Plan and TASP (herein referred to collectively as the Previous CEQA Documents'). The proposed project would include 13 three-story buildings that would contain 78 townhome units with 12 accessible dwelling units (ADUs), for a total of 90 residential units on the project site. The Infill Environmental Checklist below cites the specific portions of the previous EIRs that contain the programmatic analysis of the project's potential significant effects.

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6.0 INFILL ENVIRONMENTAL CHECKLIST

This Infill Environmental Checklist is based on the CEQA Guidelines Appendix N Infill Environmental Checklist form. That form and this Infill Environmental Checklist are intended to document a qualifying infill project's eligibility for streamlining pursuant to CEQA Guidelines Section 15183.3 and to assist in making the determinations required by Section 15183.3, including whether the infill project's effects have been addressed in a planning level decision or by uniformly applicable development policies. (See Section I, Introduction, of Appendix M: Performance Standards for Infill Projects Eligible for Streamlined Review, of the CEQA Guidelines).

Aesthetics. The General Plan EIR evaluated impacts to aesthetics in Section 3.1, Aesthetics and Visual Resources. The General Plan EIR determined that there are no officially designated scenic vista points within the city and no officially designated State Scenic Highways in the vicinity of Milpitas. Additionally, Milpitas and the immediate surrounding areas are not visible from the officially designated and eligible State Scenic Highway corridors within Santa Clara County. The General Plan EIR stated that new development consistent with the General Plan would be designed in a way that enhances the visual quality of the community and would primarily be located in and around existing urbanized areas to ensure that new development would not obstruct or interfere with views of visual features surrounding the city. Additionally, the General Plan EIR discussed that future development would be required to be consistent with lighting and design requirements in the Milpitas Municipal Code and General Plan policies which would ensure that new developments would not result in adverse impacts to daytime glare and nighttime lighting.

The TASP EIR evaluated impacts to aesthetics in Section 3.2, Visual Resources. As discussed in the TASP EIR, the only scenic resources located within the TASP Area are street trees located on McCandless Drive, approximately 0.3 mile west of the project site. The TASP EIR concluded that implementation of the TASP would generally enhance the visual character of the Planning Area through design standards that create a unified appearance, consistent setbacks, landscaped buffers, street trees, and parks. Additionally, the City's Tree and Planting Ordinance would ensure that redevelopment associated with the TASP would not result in significant visual impacts due to the removal of existing mature trees.

Potential impacts to visual resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not located within an area considered to be within view of a scenic vista or State Scenic Highway and development of the proposed project would not obscure any views of scenic vistas from surrounding public vantage points. Existing development policies and requirements of the General Plan, TASP, and Milpitas Municipal Code would ensure that the proposed project would not result in significant impacts to visual resources. The Previous CEQA Documents did not identify any mitigation measures related to aesthetics and no mitigation measures would be required for the proposed project.

Agriculture and Forestry Resources. The General Plan EIR evaluated impacts to agriculture and forestry resources in Section 3.2, Agricultural and Forest Resources. The General Plan EIR stated that there are no lands within the city that are designated for agricultural use on the Milpitas General Plan Land Use Map, no lands that are currently under a Williamson Act contract, and no agricultural

lands identified by the California Department of Conservation's Farmland Mapping and Monitoring Program within the city. Additionally, the General Plan EIR stated that there are no forest lands or timber lands located within the city.

The TASP FEIR did not analyze impacts to agricultural resources as the TASP Area is urban without any agricultural or forest land uses in the area or vicinity.

Potential impacts to agriculture and forestry resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The Santa Clara County Important Farmland 2012 map designates lands within the TASP Area, including the project site, as "Urban and Built-Up Land." There are no existing agricultural or forest land uses within or adjacent to the project site and the proposed project would have no impacts on agriculture or forestry resources. The Previous CEQA Documents did not identify any mitigation measures related to agriculture and forestry resources and no mitigation measures would be required for the proposed project.

Air Quality. The General Plan EIR evaluated impacts to air quality in Section 3.3, Air Quality. The General Plan includes an extensive list of policies and actions that are specifically aimed at improving air quality to cover the full breadth of air quality issues as recommended in the 2017 Clean Air Plan. These policies and actions promote a compact urban development form, emphasizing infill development, and ensure that land use patterns do not expose sensitive receptors to pollutant concentrations. The Circulation Element of the General Plan also includes a wide range of policies and actions that would reduce vehicle miles traveled (VMT) per service population throughout the Planning Area through the use of complete streets and multi-modal transportation systems. The Land Use, Community Design, and Conservation Elements of the General Plan contain policies and actions that would reduce criteria pollutant emissions, odors, health risks, and other emissions specifically aimed at reducing greenhouse gas emissions/climate change. The General Plan EIR concluded that the General Plan would be consistent with the 2017 Clean Air Plan. Additionally, the General Plan EIR determined that implementation of the General Plan would not cause the disruption, delay, or otherwise hinder the implementation of any air quality plan control, would not result in a cumulatively considerable net increase of criteria pollutants, would not expose sensitive receptors to substantial pollutant concentrations, and would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

The TASP EIR evaluated impacts to air quality in Section 3.6, Air Quality. The TASP EIR determined short-term impacts due to construction and long-term impacts due to increases in population and additional development could affect local particulate concentrations and other criteria pollutant emissions. The TASP and General Plan include an extensive list of policies and actions aimed at improving air quality to reduce this impact. However, the TASP EIR concluded that implementation would add to the regional pollution burden, further contributing to the exceedance of regional air pollutant emissions for State and federal ambient air quality standards, and would conflict with the implementation of the 2005 Bay Area Ozone Strategy, resulting in significant and unavoidable impacts. The TASP EIR determined that implementation of the TASP would be consistent with the Transportation Control Measures in the 2005 Bay Area Ozone Strategy due to the availability of transit options within the Plan Area and the implementation of various policies and actions in the General Plan and TASP. Additionally, air quality impacts associated with construction would be less than significant due to the implementation of the Bay Area Air Quality Management District's

(BAAQMD's) basic construction mitigation measures, as required by TASP Policy 5.16. The TASP EIR also determined that implementation of BAAQMD's construction BMP's, along with additional TASP policies would ensure that implementation of the Plan would not expose sensitive receptors to toxic air contaminants.

Potential impacts to air quality associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would develop high-density, transit-oriented residential development and would result in a building density at the project site that is consistent with what was evaluated in the Previous CEQA Documents. The proposed project would be subject to BAAQMD's basic construction mitigation measures and TASP and General Plan policies as discussed above. Therefore, construction of the proposed project would result in similar construction-related, short-term air quality impacts as those impacts identified in the Previous CEQA Documents. The population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR. Therefore, implementation of the proposed project would not substantially increase population, vehicle trips, or vehicle miles traveled (VMT), and the conclusions regarding compliance with the Clean Air Plan, effects on regional air quality, and localized carbon monoxide impacts in the Previous CEQA Documents remain applicable to the proposed project. The proposed project does not include additional toxic air contaminant (TAC) sources at the project site; therefore, implementation of the proposed project would not expose sensitive receptors to substantial pollutant concentrations. The Previous CEQA Documents did not identify any mitigation measures related to air quality and no mitigation measures would be required for the proposed project.

Biological Resources. The General Plan EIR evaluated impacts to biological resources in Section 3.4, Biological Resources. The General Plan EIR concluded that development under the General Plan could result in the direct and indirect loss of habitat areas associated with special status species and sensitive natural communities. However, the General Plan includes a variety of policies and actions that would protect special status plant and animal species and sensitive natural communities from adverse effects associated with future development and improvement projects. Additionally, development projects would be subject to existing federal and State laws and regulations such as the California Endangered Species Act, Federal Endangered Species Act, Migratory Bird Treaty Act, Clean Water Act, Porter-Cologne Water Quality Control Act, California Oak Woodland Conservation Act, and California Wetlands Conservation Policy. The General Plan EIR concluded that implementation of the General Plan would not result in significant impacts to biological resources due to the implementation of General Plan policies and actions and compliance with existing federal and State regulations.

The TASP EIR evaluated impacts to biological resources in Section 3.8, Biological Resources. The TASP EIR determined that development in the Planning Area would result in the removal of landscaping and disturbance to habitat, which could affect wildlife including burrowing owl, nesting birds, and common wildlife species. However, there is minimal potential for special-status species to occur within the Planning Area due to the history of development in the TASP Area. The TASP EIR concluded that the implementation policies and regulations in the General Plan, TASP, and existing federal and State laws and regulations would ensure that development associated with the TASP would not result in significant impacts to biological resources.

Potential impacts to biological resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site and neighboring parcels are currently developed, and therefore do not contain any special-status species habitat, federally protected wetlands, or riparian habitat. Many bird species use the existing ornamental trees for cover, nesting, or stop-over locations during migration. Removal of large, mature trees can cause direct mortality to nesting birds and their young and construction disturbance can cause nest abandonment resulting in indirect loss to avian species. The proposed project would implement TASP Policy 5.26 which would require a qualified biologist to conduct a survey that would be considered by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) as appropriate, to determine whether a project would require avoidance procedures. Implementation of General Plan Policies 4.b-I-4 and 4.b-I-5 and TASP Policy 5.26 would reduce potential impacts to nesting raptors and other birds to less-than-significant levels. The proposed project would result in the removal of 82 trees on the project site and the planting of approximately 136 new trees. The proposed project would be subject to the Tree and Planting Ordinance of the City of Milpitas which protects significant trees and requires compensation for lost trees. Therefore, the proposed project would not result in impacts related to biological resources that are new or more significant than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to biological resources and no mitigation measures would be required for the proposed project.

Cultural Resources. The General Plan EIR evaluated impacts to cultural resources in Section 3.5, Cultural and Tribal Cultural Resources. The General Plan EIR stated that 33 cultural resources from both the prehistoric and historic periods have been identified within the city and 25 buildings are identified on the Santa Clara County Historic Property Data File Directory, 23 of which are also included on the list of resources on file with the Northwest Information Center (NWIC). The Native American Heritage Commission (NAHC) conducted a records search of the NAHC Sacred Lands File for the area, which yielded negative results, and the City received no responses to SB 18 tribal consultation letters. The General Plan EIR concluded that although the General Plan does not directly propose any adverse changes to any known historic or archaeological resources, future development could affect historical and archaeological resources which have not yet been identified. However, the General Plan includes a variety of policies and actions that would reduce impacts to potential cultural resources to a less than significant level.

The TASP EIR evaluated impacts to cultural resources in Section 3.13, Cultural Resources. The TASP EIR stated that the only historic resource in the TASP Area that is listed in the City's Register of Cultural Resources is the Old Ford Motor Assembly Plant now known as the Great Mall, which is located approximately 0.5 mile north of the project site. Additionally, one Native American archaeological resource, CA-SCL-593, and a prehistoric archaeological site are located adjacent to the TASP Area. The TASP EIR discussed that the primary impact that could occur to cultural resources within the Plan Area would be the disturbance of cultural resources during grading and/or development of property. The TASP EIR also identified a reasonable possibility of uncovering archaeological deposits and paleontological resources within the Plan Area during construction of new development. However, the TASP EIR concluded that existing national, State, and local laws as well as policies contained in the General Plan and TASP would reduce potential impacts on cultural resources to less than significant levels.

Potential impacts to cultural resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is fully developed with two light-industrial buildings, neither of which are considered significant historic resources under the State or federal standards for historic resources. While subsurface cultural resources are not anticipated to be encountered with demolition and grading of the site, there is a chance that construction activities could affect previously-unidentified archaeological resources on the project site. The TASP EIR identifies Policy 5.31 to reduce the impacts to previously unidentified archaeological resources to a less-than-significant level through construction monitoring, and if remains are found, temporary halting of construction until development and implementation of a mitigation plan. Implementation of Policy 5.31 from the TASP would reduce impacts to previously unidentified archaeological resources to a less-than-significant level. Implementing the proposed project would not lead to new or more severe impacts to cultural resources that would occur beyond those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to cultural resources and no mitigation measures would be required for the proposed project.

Energy. The General Plan EIR evaluated impacts to energy in Section 3.7, Greenhouse Gases, Climate Change, and Energy. The General Plan EIR found that buildout of the General Plan would result in the use of energy resources for the operation of buildings, for on-road vehicle trips, and from off-road construction activities. However, buildout of the General Plan would be completed in compliance with all applicable federal, State, and local regulations governing energy usage including State Title 24 building energy efficiency standards and those intended to improve the energy efficiency of the Statewide passenger and heavy-duty truck vehicle fleet. Additionally, project-specific sustainable features would be implemented in individual development projects and pedestrian and bicycle pathways and public transit access within the city would reduce the need for local motor vehicle traffic. The General Plan EIR determined that the electricity and natural gas providers for the City maintain sufficient capacity to serve the Planning Area and implementation of the General Plan would not result in any significant adverse impacts related to project energy requirements and energy use inefficiencies.

The TASP EIR evaluated impacts to energy in Section 3.12, Greenhouse Gases and Climate Change. The TASP EIR determined that buildout under the TASP would increase the total demand for electrical energy within the Plan Area but energy efficient building standards and energy efficient appliance standards would result in improvements to energy efficiency and reductions in energy consumption. The TASP EIR determined implementation of TASP policies and compliance with existing State requirements would ensure that the additional energy that homes and businesses consume would not impede achievement of the Statewide reduction in emissions mandated by the California Climate Solutions Act of 2006.

Potential impacts to energy associated with the proposed project have been adequately addressed in the Previous CEQA Documents. Construction of the proposed project would require energy for the manufacture and transportation of building materials, preparation of the site for demolition and grading activities, and building construction. In order to increase energy efficiency on the site during project construction, equipment idling times would be restricted to 5 minutes or less and construction workers would be required to shut off idle equipment, as required by the BAAQMD

Basic Construction Mitigation Measures. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources. Therefore, construction energy impacts would be less than significant, and no mitigation would be required.

The proposed project would result in the development of high-density, transit-oriented residential uses on the site. Therefore, the proposed project would support the ability to use alternative modes of transportation, would promote initiatives to reduce vehicle trips and VMT, and would increase the use of alternate means of transportation, which would allow for a decreased dependence on nonrenewable energy resources. In addition, the proposed project would be required to be constructed to CALGreen standards, which would help to reduce energy and natural gas consumption. The TASP EIR identifies Policy 5.6 which requires the use of Energy Star appliances and equipment in new residential and commercial development, and Policy 5.7 which requires at least 50 percent of all new residential development to be pre-wired for optional photovoltaic roof energy systems and/or solar water heating. Therefore, the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of fuel or energy or conflict with California's green energy conservation plans and would incorporate renewable energy or energy efficiency measures into building design, equipment use, and transportation. Implementing the proposed project would not lead to new or more severe impacts to energy that would occur beyond those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to energy and no mitigation measures would be required for the proposed project.

Geology and Soils. The General Plan EIR evaluated impacts to geology and soils in Section 3.6, Geology and Soils. The General Plan EIR stated that there are known active faults within the city and the area could experience considerable ground shaking generated by these faults. The city also contains areas mapped for liquefaction and earthquake induced landslide hazards, primarily along Coyote Creek. Additionally, unstable geologic units and expansive soil could be present within the city. However, the General Plan EIR determined that development projects would be required to comply with provisions of the California Building Standards Code (CBC), which requires the completion of geotechnical investigations and engineered improvements to address potential seismic and ground failure issues. Additionally, development projects would be subject to policies and actions included in the General Plan and Zoning Ordinance that would prevent adverse impacts due to seismic and/or geologic hazards.

The General Plan EIR determined that new development could involve land clearing, grading, and other ground-disturbing activities that could temporarily increase soil erosion rates during and shortly after construction. However, erosion potential is considered low in the city since it is primarily developed with urban uses and development projects would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) and would be subject to requirements of the CBC, General Plan, and Zoning Ordinance aimed to reduce soil erosion that would reduce erosion impacts to less than significant levels. The General Plan EIR identified the potential for development to result in impacts to undiscovered fossils and other geologic features of potential significance. However, the General Plan includes policies and actions such as the completion of an archaeological survey

and halting of ground disturbing activities upon the discovery of any unique paleontological resources that reduce this potential impact to less than significant levels.

The TASP EIR evaluated impacts to geology and soils in Section 3.5, Geology, Soils and Seismic Hazards. The TASP EIR concluded that the Plan Area is not located within an Earthquake Fault Hazard Zone and, because surface topography is relatively level in the Plan Area, potential slope instability hazards are minimal. The TASP EIR found that ground shaking and associated ground failure (e.g., liquefaction), soil expansion, settlement, and erosion could result in structural damage within the Plan Area. However, potential impacts would be less than significant because development projects would be subject to requirements of the CBC; policies and actions of the General Plan, TASP, and Zoning Ordinance; and the Construction General Permit. Additionally, development projects would be required to implement recommendations included in a site-specific geotechnical investigation and SWPPP. The TASP EIR determined that adverse impacts on paleontological resources could occur during earthwork activities such as mass excavation. The TASP EIR determined that implementation of TASP Policy 5.32, which requires project-specific evaluation, monitoring during construction, temporary suspension of grading, and fossil recovery in the event fossils are discovered, would reduce the potential impact to such resources to less-than-significant levels.

Potential impacts to geology and soils associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is located within the Plan Area of the TASP and is therefore not located within an Earthquake Fault Hazard Zone and potential slope instability hazards are minimal as discussed above. The proposed project would be required to comply with the CBC; policies and actions of the General Plan, TASP, and Zoning Ordinance; and the Construction General Permit, and would be required to implement recommendations included in a geotechnical investigation and SWPPP. Compliance with these existing regulatory requirements would ensure the proposed project would not result in any significant impacts related to ground shaking and associated ground failure, soil expansion, settlement, erosion, and paleontological resources. The proposed project would not result in new impacts related to geologic hazards, erosion, or paleontological resources, or substantially increase the severity of impacts than those analyzed in Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to geology and soils and no mitigation measures would be required for the proposed project.

Greenhouse Gas Emissions. The General Plan EIR evaluated impacts to greenhouse gas emissions in Section 3.7, Greenhouse Gases, Climate Change, and Energy. The General Plan EIR found that development associated with implementation of the General Plan would include activities that emit greenhouse gas emissions over the short and long term. However, construction activities would be subject to State requirements for greenhouse gas (GHG) emissions as required by the Milpitas Climate Action Plan (CAP) and the BAAQMD. The CAP identifies strategies, reduction measures, and implementation strategies the City may use to achieve the State-recommended GHG emission reduction targets in a manner consistent with Assembly Bill 32. The General Plan also includes numerous policies and actions intended to reduce GHG emissions associated with future development and improvement projects. The General Plan EIR determined that implementation of

the General Plan would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

The TASP EIR evaluated impacts to greenhouse gas emissions in Section 3.12, Greenhouse Gases and Climate Change. The TASP EIR determined that the primary sources of GHG emissions related to urban development in the Plan Area are anticipated to be from motor vehicles and electric power generation as well as short-term impacts from construction activity. However, the TASP promotes development patterns that will reduce the vehicle miles traveled per capita and proposes a variety of other actions that can reduce emissions, including tree planting. The TASP EIR determined that implementation of the TASP would not generate greenhouse gas emissions, either directly or indirectly that may have a significant impact on the environment.

Potential impacts to greenhouse gas emissions associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would adhere to the building guidelines of the TASP, would be consistent with the Milpitas Climate Action Plan, and would promote reductions in GHG emissions through high-density development in close proximity to transit. To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen standard building measures for residential buildings and Title 24 requirements. Additionally, the proposed project would include a total of 1.2 acres of common open space and landscaped areas, following the City's standards, which would help offset GHG emissions. The proposed project would not result in any new or more severe impacts related to GHG emissions than analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to GHG emissions and no mitigation measures would be required for the proposed project.

Hazards and Hazardous Materials. The General Plan EIR evaluated impacts to hazards and hazardous materials in Section 3.8, Hazards and Hazardous Materials. The General Plan EIR determined that impacts associated with the routine use, transport, storage, or disposal or accidental release of hazardous materials would be less than significant with the implementation of General Plan policies and compliance with federal and State regulations including the Clean Water Act, Hazardous Materials Transportation Act, California Code of Regulations, and the California Health and Safety Code as monitored by local fire departments, Certified Unified Program Agencies, California Occupational Safety and Health Administration, BAAQMD, Regional Water Quality Control Board, and the California Department of Toxic Substances Control. The General Plan EIR determined that there are no airport facilities located within the Planning Area and the City of Milpitas is not located within one of the Airport Safety Zones for the San Jose International Airport. Additionally, no portions of the Planning Area are categorized as a "Very High" fire hazard severity zone by CalFire; however, the hilly terrain to the east of the city limits is designated as "high" and "moderate" fire hazard severity zone by CalFire. The General Plan includes requirements for adequate water supply and water flow availability, ensuring adequate emergency access, adequate fire protection services, fire safe design site standards, and ensuring public awareness regarding fire safety.

The TASP EIR evaluated impacts to hazards and hazardous materials in Section 3.4, Safety and Hazardous Materials. The TASP EIR determined that, due to historical land uses and reported hazardous material releases and spills, potential impacts associated with existing soil and groundwater contamination in portions of the Plan Area could occur. Potential impacts include risk

of upset during demolition and construction activities and potential risks to human health and the environment. However, future development would be subject to existing hazardous materials regulations for the use, transport, and disposal of hazardous materials as discussed above. The TASP EIR determined that compliance with these existing regulatory requirements as well as the policies in the General Plan and TASP would ensure that no significant impacts involving hazardous materials would occur.

Potential impacts related to hazards and hazardous materials associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.⁵ The proposed land use would not involve transport, use, or disposal of significant quantities of hazardous materials. Generally, small quantities of hazardous materials such as paints and cleaning products would be used for routine maintenance. Therefore, a significant hazard to the public or environment through the routine transport, use, or disposal of hazardous materials would not occur.

TASP Policy 5.20 requires parcels with no identified contamination to complete a Phase I Environmental Site Assessment (ESA) to determine the potential for ground water, soil, or other contamination related to previous land uses. If any potential for contamination is determined to exist that could adversely affect human health for residential uses, a Phase II ESA would be required. If appropriate, engineering controls and design measures would be required to be implemented to mitigate the potential risk of post-development vapor intrusion into buildings. The project site does not have any known contamination. Consistent with TASP Policy 5.20, the project sponsor would be required to prepare a Phase I ESA, and a Phase II ESA if necessary, prior to the issuance of any demolition or building permits.

Policy 5.21 of the TASP addresses hazardous materials that may be present in existing buildings such as asbestos, polychlorinated biphenyls (PCBs), or lead. The project would also be required to comply with Section 19827.5 of the California Health and Safety Code, which requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with notification requirements under applicable federal regulations regarding hazardous air pollutants, including asbestos. Also required is full compliance with Title 17 and Title 8 of the California Code of Regulations, which includes work practice standards related to the evaluation and abatement of lead.

The project site is not located within the Airport Safety Zones or Airport Influence Area of the San Jose International Airport,⁶ and is not located in the vicinity of a private air strip. Additionally, the project site is not located in a designated high or very high fire hazard severity zone.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce

⁵ California Environmental Protection Agency. 2022. Cortese List Data Resources. Website: <https://calepa.ca.gov/sitecleanup/corteselist/> (accessed November 1, 2022).

⁶ Santa Clara County Airport Land Use Commission, 2016. *Comprehensive Land Use Plan, Santa Clara County, Norma Y. Mineta San Jose International Airport*. May 25.

potential exposure of people and the environment to hazardous materials associated with development of a contaminated property and demolition of older structures to a less-than significant level. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to hazards and hazardous materials and no mitigation measures would be required for the proposed project.

Hydrology and Water Quality. The General Plan EIR evaluated impacts to hydrology and water quality in Section 3.9, Hydrology and Water Quality. The General Plan EIR determined that construction activities associated with new development within the city would result in less than significant impacts to water quality because construction activities for any projects that disturb an area one acre or larger would be required to comply with the Construction General Permit (CGP) and prepare a SWPPP which would include project specific best management measures that are designed to control drainage and erosion. After the completion of construction activities, projects would be subject to the Bay Area Municipal Regional Stormwater Permit (MRP) National Pollutant Discharge Elimination System (NPDES) permit, which requires the installation and maintenance of Best Management Practices (BMPs) for site design and stormwater treatment. Additionally, the City's Municipal Code and General Plan provide further regulations and policies intended to protect water quality. The General Plan EIR determined that the City will have adequate water supply to serve the buildout of the General Plan land uses and that future development projects under the General Plan would not significantly affect infiltration due to the highly developed nature of the city. The General Plan EIR identified that portions of the city are located within flood hazard zones and dam inundation zones; however, compliance with existing regulatory requirements would ensure that proposed development would not release pollutants due to project inundation. The General Plan EIR determined that tsunamis and seiches are not a concern within the Planning area.

The TASP EIR evaluated impacts to hydrology and water quality in Section 3.10, Hydrology and Water Quality. The TASP EIR concluded that impacts to stormwater runoff and water quality would be less than significant with implementation of the existing regulatory requirements discussed above and additional policies within the TASP. The TASP determined that groundwater levels and recharge would not be substantially impacted by implementation of the TASP and that existing drainage patterns would generally be maintained. The TASP EIR determined that stormwater runoff would decrease with the buildout of the TASP Area due to the addition of more landscaped areas and parks which would allow more precipitation to infiltrate into the ground compared with the current condition of nearly complete coverage of impervious pavement. Developers are required to fund a Storm Drainage Plan for each subdistrict within the TASP Area that includes measures to reduce runoff pollutants and control pollutant sources to the maximum extent practical. Full compliance with the Santa Clara County NPDES permit guidelines for stormwater discharges and General Plan Policy 4.d.-G-1 would ensure that long-term water quality impacts would not be significant.

Potential impacts related to hydrology and water quality associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would disturb greater than one acre of land, and therefore would be subject to the CGP and development and implementation of a SWPPP would be required. Dewatering may be performed during construction

activities involving excavation; however, if performed, construction-related dewatering would be temporary and limited to areas of excavation on the project site and would not substantially contribute to depletion of groundwater supplies. The proposed project would replace over 10,000 square feet of existing impervious surface area, and would therefore be required to comply with the MRP. The proposed project would result in alteration of over 50 percent of the existing impervious surface of the project site, and therefore all new and replaced impervious surfaces would require treatment under the MRP. The low-impact development (LID) stormwater controls for the proposed project would include permeable pavement, bio-retention areas, and self-treating landscape areas. Operation of the proposed project would not involve dewatering or the use of groundwater as potable water, because potable water would be supplied to the project site by the City. Additionally, the proposed project would not substantially interfere with infiltration compared to existing conditions due to the incorporation of the LID stormwater controls discussed above.

The project site is located in an area designated as “Special Flood Hazard Areas Subject to Inundation By the 1 percent Annual Chance Flood” Zone AO on the current Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency (FEMA).⁷ The Zone AO designation indicates areas that are subject to inundation by the 1-percent-annual-chance flood (also known as a 100-year flood) event with an established base flood elevation⁸ or depth, and the flood depth at the project site is indicated to be 1-foot. TASP Policy 6.1 requires projects to minimize damage associated with flooding events and comply with regulations stipulated by FEMA and the National Flood Insurance Program. TASP Policy 6.2 requires new development within a FEMA-designated flood hazard zone to follow the City’s construction standards for such areas, as currently laid out in Section XI-15 ‘Floodplain Management Regulations’ of the Milpitas Municipal Code. The project sponsor would be required to apply for a Conditional Letter of Map Revision (CLOMR-F) and Letter of Map Revision (LOMR-F) based on area removal or structure removal from the effective FEMA floodplain and subsequently comply with all City floodplain ordinances.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce potential impacts to hydrology and water quality. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to hydrology and water quality and no mitigation measures would be required for the proposed project.

Land Use and Planning. The General Plan EIR evaluated impacts to land use and planning in Section 3.10, Land use and Planning and Population/Housing. The General Plan EIR concluded that the General Plan Land Use Map associated with the General Plan did not include any new areas designated for urbanization or new roadways, infrastructure, or other features that would divide existing communities. Additionally, the General Plan includes policies to ensure that development is compatible with adjacent communities and land uses. The General Plan EIR determined that the General Plan would require modifications to the City’s Zoning Ordinance to provide consistency;

⁷ Federal Emergency Management Agency. 2009. Flood Insurance Rate Map (FIRM) #06085C0069H. May 18.

⁸ Base flood elevation is the regulatory requirement for the elevation or flood proofing of structures.

however, these modifications would not remove or adversely modify portions of the Milpitas Municipal Code.

The TASP EIR evaluated impacts to land use and planning in Section 3.1, Land Use. The TASP EIR determined that implementation of the TASP would not divide an established community and stated there are no habitat conservation plans or natural community conservation plans within the Planning Area. However, the TASP EIR discussed that implementation of the TASP would significantly change the land use designations and pattern of development within the area because new residential uses would be built within an existing industrial area. Therefore, there may be periods of time when incompatible uses are adjacent to each other; however, the TASP includes policies and programs that would reduce this impact to less than significant levels at final buildout.

Potential impacts related to land use and planning associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would develop a new residential use on a site within the TASP that currently contains two single-story industrial buildings that include manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees. The proposed project would not inhibit public connectivity, and would not physically divide a community. The proposed project would be consistent with the existing land use and zoning designations of the project site. The development associated with the proposed project is within the amount of growth evaluated within the TASP EIR and is compatible with existing and future residential uses in the vicinity of the project site. Therefore, the density and intensity of the proposed project would not result in any new or more significant impacts regarding conformance with land use plans than those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to land use and planning and no mitigation measures would be required for the proposed project.

Mineral Resources. The General Plan EIR evaluated impacts to mineral resources in Section 3.11, Mineral Resources. The General Plan EIR states that there are four areas identified by the State Geologist as containing Regionally Significant Construction Aggregate Resources within the Planning Area, which are located in the foothills outside of city limits and are all currently being quarried. The TASP EIR did not analyze impacts to mineral resources as the TASP Area is located in a developed urban area that does not have mineral exploration or extraction occurring in the vicinity. The TASP Area is not designated as containing mineral resource deposits of regional importance.

Potential impacts related to mineral resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is located within the TASP Area in a developed urban area with no mineral exploration or extraction occurring in the vicinity of the project site. As such, the proposed project would have no impacts on mineral resources and would not result in impacts to mineral resources that are new or more significant than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to mineral resources and no mitigation measures would be required for the proposed project.

Noise. The General Plan EIR evaluated impacts to noise in Section 3.12, Noise. The General Plan EIR determined that implementation of the General Plan may contribute to an exceedance of the City's transportation noise standards and/or result in significant increases in traffic noise levels at existing

sensitive receptors. The General Plan identifies numerous policies and actions that are intended to minimize exposure to excessive noise, including noise associated with traffic such as placing noise-compatible land uses in the vicinity of traffic noise sources, requiring new development projects to be reviewed for consistency with established noise standards, and incorporating noise control treatments as necessary to achieve acceptable noise levels. However, the General Plan EIR determined that traffic noise increases associated with the General Plan would still exceed the applicable noise exposure criteria and a significant and unavoidable impact would occur relative to traffic noise on existing noise-sensitive uses in the city. The General Plan EIR determined that implementation of the General Plan would not result in exposure to excessive railroad noise sources, the generation of excessive stationary noise sources, or an increase in construction noise or vibration sources and includes a variety of policies and actions to reduce these impacts to less than significant levels.

The TASP EIR evaluated impacts to noise in Section 3.7, Noise. The TASP EIR determined that implementation of the TASP would result in temporary and intermittent construction noise impacts as well as long-term operational noise impacts from the increase in roadside noise levels due to the increase in population to the area. Additionally, due to the transit-oriented and mixed-use nature of development proposed under the TASP, receptors could also be exposed to ground borne noise and vibration from nearby train and BART activity. However, The TASP EIR determined that the implementation of various policies and actions in the General Plan and TASP would reduce all potential impacts related to noise and vibration to less than significant levels.

Potential impacts related to noise associated with the proposed project have been adequately addressed in the Previous CEQA Documents. Construction of the project would be required to adhere to the noise standards and requirements set forth in the City's Municipal Code and General Plan. The proposed project would implement the measures identified in the TASP for addressing noise, including providing disclosures to future residents per Policy 5.17. The City's Noise Abatement Ordinance would restrict construction hours to between 7:00 a.m. and 7:00 p.m. The City's General Plan Policy 6-I-13 would minimize construction noise impacts by restricting the hours of operation, technique, and equipment used. Additionally, TASP Policy 5.15 would require the project sponsor to demonstrate that noise and vibration exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance.

The proposed project is a residential land use and would not be considered a significant source of noise within the community that could adversely affect other nearby residential land uses. Intermittent audible sounds produced by the proposed residential project would primarily be associated with human voices, vehicles, and mechanical ventilation equipment. Such intermittent sounds would be expected in a residential area. Therefore, the proposed project would not increase stationary source noise impacts above those analyzed in the Previous CEQA Documents. As described previously, the proposed project would be consistent with the TASP and within the development capacity analyzed in the TASP EIR. Therefore, the proposed project would also result in a less-than-significant impact with regard to traffic noise increases in the community.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable regulations and General Plan and TASP policies, as described above, would ensure that the proposed project would not result in new impacts or substantially increase the severity of

impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to noise and no mitigation measures would be required for the proposed project.

Population and Housing. The General Plan EIR evaluated impacts to population and housing in Section 3.10, Land use and Planning and Population/Housing. The General Plan EIR concluded that implementation of the General Plan would not induce substantial unplanned population growth, either directly or indirectly. The General Plan EIR includes policies and actions intended to guide growth to appropriate areas and provide services necessary to accommodate growth. Additionally, the General Plan EIR concluded that implementation of the General Plan would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. The General Plan Land Use Map was developed to preserve existing neighborhoods and implementation of the General Plan would result in an increase the overall number of dwelling units in the city. The General Plan includes policies that would ensure that a range of housing types are provided in the city and that housing conditions are evaluated as the housing supply ages.

The TASP EIR evaluated impacts to population and housing in Section 5, CEQA Required Conclusions. The TASP EIR evaluated potential environmental impacts associated with approximately 7,100 residential units and 18,000 new residents within the TASP Area. The TASP EIR determined that implementation of the TASP would result in an increase the City's total housing stock by 39 percent and total population by 27 percent. The TASP EIR did not identify any significant impacts to population and housing that would occur from implementation of the TASP.

Potential impacts related to population and housing associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include the development of the project site with high-density residential buildings with up to 90 residential units and approximately 227 new residents.⁹ The population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR, as previously mentioned. Therefore, the proposed project would not result in new or more significant population growth and/or housing impacts than were analyzed and described in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to population and housing and no mitigation measures would be required for the proposed project.

Public Services. The General Plan EIR evaluated impacts to public services in Section 3.13, Public Services and Recreation. The General Plan EIR determined that development under the General Plan would result in additional residents and businesses in the city, including new residential, industrial, office, and commercial uses. New development and growth would result in increased demand for public services, including fire protection, law enforcement, schools, parks, libraries, and other public and governmental services. The General Plan includes a Public Facilities land use designation to accommodate the necessary expansion or development of new public facilities required to maintain acceptable performance standards. Furthermore, the General Plan EIR determined that any future

⁹ This analysis assumes a household population of 2.52 persons per dwelling unit, as determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).

development would be analyzed for potential environmental impacts, consistent with the requirements of CEQA. The General Plan includes a range of policies and actions to ensure that public services adequately accommodate growth, that community services and facilities are maintained, and that new development funds its fair share of services.

The TASP EIR evaluated impacts to public services in Section 3.9, Public Services. The TASP EIR determined that buildout of the TASP would require at least one new elementary school and expansions of existing school facilities, expansion of an existing fire station or construction of a new one, and additional staff and equipment for police services. The TASP determined that enough park space was incorporated into the Specific Plan to meet the expected requirements for the Planning Area given the population at buildout. The TASP includes policies to reduce the potential impacts to school facilities, fire protection services, police services, and parks such as hiring of additional staff and payment of development impact fees. The TASP concluded that the policies within the General Plan and TASP would reduce impacts to fire protections services, police services, and parks to less than significant levels but that implementation of the TASP would result in a significant and unavoidable impact to school facilities.

Potential impacts related to public services associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project sponsor would be required to construct the proposed project in conformance with current building codes, which require features to reduce potential fire hazards. The Milpitas Police Department would also review project design to ensure that it incorporates appropriate safety features to minimize criminal activity. As previously described, the population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR. Therefore, the proposed project would not result in the need for new or expanded fire or police facilities beyond those that were already analyzed and described in the TASP EIR.

The proposed project would include 90 residential units within the TASP Area, which would directly increase the demand for school facilities. Policies in the General Plan and TASP would reduce the impact and include coordination with the school districts to update their comprehensive facilities plans, update school fees for developers, and consider joining use agreements for potential shared facilities. Impacts to schools are significant and unavoidable and the proposed project would not affect this conclusion as the number of proposed residential units and resulting students is within the amount evaluated in the TASP EIR. The proposed project would not result in any new or more significant school impacts beyond those identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to public services and no mitigation measures would be required for the proposed project.

Recreation. The General Plan EIR evaluated impacts to recreation in Section 3.13, Public Services and Recreation. The General Plan EIR determined that growth under the General Plan would include a range of uses that could increase the population of the city and attract additional workers and tourists which would result in an increased demand for parks and recreation facilities. The General Plan includes a range of policies and actions to ensure that parks and recreational facilities are adequately funded, and that new development funds its fair share of services needed.

The TASP EIR evaluated impacts to recreation in Section 3.9, Public Services. The TASP EIR determined that the recreation areas proposed as part of the TASP would meet the City's adopted public park land ratio of 2.0 acres per 1,000 residents and would provide an adequate level of park and open space for residents. The TASP also contains numerous policies and standards to ensure that less than significant impacts on parkland and recreational facilities would occur.

Potential impacts related to recreation associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include a total of 52,870 square feet of common open spaces and 11,250 square feet of private open space. Common open space on the project site would consist of walkways, community dining areas, and seating areas with turf. Private open space would consist of useable decks. The project sponsor would also be required to pay an in-lieu parks fee consistent with TASP Policy 3.38. Therefore, the proposed project would not result in any new or more significant impacts to existing neighborhood or regional park facilities beyond those identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to recreation and no mitigation measures would be required for the proposed project.

Transportation. The General Plan EIR evaluated impacts to transportation in Section 3.14, Transportation. The General Plan EIR determined that implementation of the General Plan would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. The General Plan includes policies focused on the development of a multimodal transportation network in Milpitas that places an increased emphasis on the enhancement of facilities to improve walking, bicycling and transit use. The General Plan EIR determined that the projected VMT per employee for the city is 31 percent higher than the significance threshold and although the General Plan includes policies and land use patterns that will reduce VMT, it is not possible to fully mitigate at a citywide level. Therefore, the VMT impacts associated with employment-based uses allowed by the General Plan were considered significant and unavoidable. The General Plan EIR determined that an increase in emergency response times could occur due to increased vehicle delay at intersections and along roadway segments; however, future development would be subject to the requirements of the City's Design and Construction Standards, which include requirements for emergency access, and would be reviewed by public safety officials as part of the City's entitlement process.

The TASP EIR evaluated impacts to transportation in Section 3.3, Transportation. The TASP EIR determined that implementation of the TASP would result in a significant and unavoidable impact to operations at various intersections, freeway segments, and roadway segments. The TASP includes policies and proposed roadway improvements to reduce potential impacts but impacts would remain significant and unavoidable. The TASP EIR discusses that implementation of the TASP would improve pedestrian and bicycle access within the Plan Area as well as access to transit services.

Potential transportation impacts related to VMT were not evaluated in the TASP EIR as it was not required at the time the TASP EIR was certified. The Governor's Office of Planning and Research (OPR) allows lead agencies to screen out projects with potential VMT impacts by using maps and transit availability. Specifically, OPR suggests that residential and office projects that locate in areas

with low VMT, and that incorporate similar features (i.e., density, mix of uses, transit accessibility), will tend to exhibit similarly low VMT.¹⁰

Potential impacts related to transportation associated with the proposed project have been adequately addressed in the Previous CEQA Documents. As previously described, the proposed project would include high-density residential uses on the project site. In addition, the project site is located within the TASP area and located less than half a mile from the Milpitas Transit Center, which includes the Milpitas BART Station and bus stops for up to nine different VTA bus lines. The City, as Lead Agency, has determined that the project site is located within a low residential VMT area.¹¹ Therefore, the proposed project would not result in any new impacts related to VMT.

According to the Valley Transit Authority (who administers the Santa Clara County Congestion Management Plan) Transportation Impact Analysis Technical Guidelines, a project would create an impact on pedestrian and bike circulation if: 1) it would reduce, sever or eliminate existing or planned bike/pedestrian access and circulation in the area; 2) it would preclude, modify, or otherwise affect proposed bicycle and pedestrian projects and/or policies identified in the Lead Agency's adopted bicycle/pedestrian plan, or the plans of other agencies such as the Countywide Bicycle Plan or adjacent Cities' bicycle/pedestrian plans; or 3) it would cause a change to existing bike paths such as alignment, width of the trail right of way, or length of the trail.

The proposed project would generate pedestrian trips to/from transit stops, recreation areas, and employment centers. Overall, the volume of pedestrian trips generated by the project is expected to be relatively low and not exceed the carrying capacity of the sidewalks and crosswalks nearby. U.S. Census data indicate that bicycle trips comprise less than one percent of the total commute mode share in the City of Milpitas. For the proposed project, this would equate to approximately one new bike trip during each of the AM and PM peak hours. The low volume of bicycle trips generated by the project would not exceed the bicycle-carrying capacity of streets surrounding the site, and the increase in bicycle trips would not by itself require new off-site bicycle facilities.

Overall, the proposed project would not result in new impacts or substantially increase the severity of impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to transportation and no mitigation measures would be required for the proposed project.

Tribal Cultural Resources. The General Plan EIR evaluated impacts to tribal cultural resources in Section 3.5, Cultural and Tribal Cultural Resources. The General Plan EIR stated that Native American consultations were conducted as required under Senate Bill 18, which requires local governments to consult with Tribes prior to making certain planning decisions and requires consultation and notice for a general and specific plan adoption or amendments in order to preserve, or mitigate impacts to, cultural places that may be affected. No responses were received and no specific resources were identified through consultation. However, it is possible that unknown tribal cultural resources may

¹⁰ Governor's Office of Planning and Research. 2018. *Technical Advisory on Evaluating Transportation Impacts in CEQA*. December.

¹¹ Milpitas, City of. 2021. *City of Milpitas Transportation Analysis Policy*. Attachment C: City of Milpitas Countywide Residential Average VMT. May.

be present within the city that could be adversely affected by implementation of the General Plan. Development projects would be subject to State and local guidelines which would provide an opportunity to identify, disclose, and avoid or minimize the disturbance of and impacts to a tribal resource and the General Plan includes various actions and policies that would reduce this impact to less than significant levels.

The TASP EIR evaluated impacts to cultural resources in Section 3.13. The TASP EIR determined that impacts to cultural and historic resources would be reduced to less-than-significant levels with implementation of Policy 5.34 which requires construction monitoring, and if remains are found, temporary halting of construction until development of a mitigation plan and its implementation. This finding also applies to tribal cultural resources.

Potential impacts related to tribal cultural resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. There are no known tribal cultural resources at the project site and implementation of actions and policies within the General Plan and TASP, and compliance with State and local guidelines would ensure that no significant impacts to unknown tribal cultural resources would occur. The proposed project would not result in any new or more severe impacts to tribal cultural resources than were identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to tribal cultural resources and no mitigation measures would be required for the proposed project.

Utilities and Service Systems. The General Plan EIR evaluated impacts to utilities and service systems in Section 3.15, Utilities and Service Systems. The General Plan EIR determined that although implementation of the General Plan would result in increased population and employment growth and thereby result in an increased demand for water supplies, the City will have adequate water supply to serve the full buildout of the General Plan. Furthermore, the General Plan includes various policies designed to ensure an adequate water supply is available and to minimize the potential adverse effects that could result from increased water use. The General Plan EIR found that future development projects may be required to implement site specific and limited off-site improvements to the water distribution system to connect new project sites to the existing water infrastructure network; however, the environmental impacts of this would likely be similar to those associated with the new development or redevelopment and would not be significant in and of themselves. The General Plan EIR discussed that although wastewater generation volumes would slightly increase the treatment demand at the districts' treatment plants, the General Plan includes various policies designed to ensure adequate wastewater treatment capacity for development.

The General Plan EIR found that new development may increase areas of impervious surfaces that could impact existing storm water drainage facilities; however, the General Plan includes policies and actions to ensure adequate drainage infrastructure is available to serve development and minimize potential adverse effects of stormwater conveyance. The General Plan EIR determined that the City's projected increase in solid waste generation associated with buildout of the General Plan is well within the permitted capacity of the nearby Newby Island Landfill. Additionally, future projects would be required to comply with applicable state and local requirements including those pertaining to solid waste, construction waste diversion, and recycling.

The TASP EIR evaluated impacts to utilities and service systems in Section 3.11, Utilities and Service Systems. The TASP EIR discussed potential impacts to utilities from population growth within the Plan Area including additional demand for water and sewage treatment capacity and the need for new water, sewer, and recycle water lines. The TASP EIR determined that the City has adequate water supply to support development associated with the TASP. The TASP discussed that buildout would require water distribution improvements and sewer line improvements; however, The TASP includes policies requiring the installation of pipes within existing roads or existing easements to ensure these improvements would not result in significant environmental effects. The TASP determined that the City's contracted Water Pollution Control Plant has adequate capacity to treat the additional wastewater flows that would occur with buildout of the TASP and that nearby landfills have adequate capacity to accommodate the additional waste that would be generated with buildout of the plan.

Potential impacts related to utilities and service systems associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include connections to existing utility lines via tie-ins on Tarob Court, Journey Street, and Trade Zone Boulevard. The potential impacts associated with utility line improvements for the proposed project would not be greater than or more severe than those identified in the Previous CEQA Documents. The TASP EIR concluded that water demand at buildout would be adequately served by water supplies from current sources in addition to offsets by the supplies available from the Santa Clara Valley Water District (SCVWD), the ability to run emergency wells, and an increased use of recycled water. The TASP includes policies which require the use of recycled water. The TASP EIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving the TASP Area, including the project site, for at least 30 more years.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce potential impacts associated with utilities and service systems to a less-than significant level. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to utilities and service systems and no new mitigation measures would be required for the proposed project.

Wildfire. The General Plan EIR evaluated impacts to wildfire in Section 3.16, Wildfire. The General Plan EIR stated that future projects are not anticipated to remove or impede evacuation routes, and the General Plan does not include land uses, policies, or other components that conflict with adopted emergency response or evacuation plans. Additionally, future development would be subject to all applicable City regulations, reviews, and requirements pertaining to emergency response, emergency access, and maintaining emergency evacuation routes. The General Plan EIR states that implementation of the General Plan would not substantially alter the slope, prevailing winds, or other factors that would increase exposure to Milpitas residents, employees or visitors to increased pollutant concentrations from wildfire or result in the uncontrollable spread of a wildfire. Nonetheless, the General Plan includes policies and actions related to minimizing wildfire risk. Furthermore, development would be required to comply with applicable provisions of the California

Building Code and CA Fire Code. The General Plan EIR concluded that all impacts associated with wildfire would be less than significant.

Potential transportation impacts related to wildfire were not evaluated in the TASP EIR as it was not required at the time the TASP EIR was certified. However, Section 3.4, Safety and Hazardous Materials, of the TASP EIR did determine that there were no Very High Fire Hazard Severity Zones within the TASP Area.

Potential impacts related to wildfire associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not located in a High or Very High Fire Hazard Severity Zone and the project site is not located in or near any State responsibility areas. The proposed project would not result in any new impacts related to wildfire hazards than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to wildfire and no mitigation measures would be required for the proposed project.

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7.0 LIST OF PREPARERS

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MILPITAS PLANNING COMMISSION STAFF REPORT

December 14, 2022

APPLICATION:

TOLL BROTHERS TOWNHOMES & ADUs – 675 TRADE ZONE BOULEVARD AND 1951 TAROB COURT – P-SD22-0006, P-UP22-0002, P-MT22-0002, P-DB22-0001, P-TR22-0006, AND P-EA22-0003. A Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow demolition of two industrial buildings, removal and replacement of 55 ordinance-sized trees, and development of a multi-family residential project with 78 townhomes and 12 accessory dwelling units. The residential development will consist of 13 multi-family residential buildings up to 36-feet-4-inches in height (three stories), with 191 vehicle parking spaces and associated site improvements on a 4.1-acre site located in the High-Density Residential (R3-TOD) Zoning District with a Transit Oriented Development Overlay at 675 Trade Zone Boulevard and 1951 Tarob Court. The Project is located within the Transit Area Specific Plan (TASP) area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019).

RECOMMENDATION:

Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA, and adopt Resolution No. 22-029, recommending that the City Council approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval.

PROJECT LOCATION:

Addresses and Assessor's

Parcel Number (APN):

Area of City:

675 Trade Zone Boulevard and 1951 Tarob Court (086-36-045, 033)
Transit Area Specific Plan (TASP): Trade Zone/Montague Subdistrict

PEOPLE:

Project Applicant:

Nick Kosla, Land Entitlement Director
Toll Brothers, Pleasanton, CA

Consultant(s):

Architect: *SDG Architects, Inc.*, Brentwood, CA
Civil Engineer: *Ruggeri-Jensen-Azar*, Pleasanton, CA
Landscape Architect: *R3 Studios*, Oakland, CA

Property Owner:

Geomax, Santa Clara, CA

Project Planner: Lillian VanHua, AICP, Senior Planner

LAND USE:

General Plan Designation: Milpitas Metro Specific Plan (MMSP)
 Specific Plan Designation: High-Density Transit Oriented Residential (HD-TOD)
 Zoning District: Multiple-Family High-Density with Transit Oriented Development Overlay (R3-TOD)

ENVIRONMENTAL: The Project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15183.3(b) (Residential Infill). As a separate and independent basis, the Project is also exempt from further environmental review pursuant to CEQA Guidelines Section 15182 (Projects pursuant to a Specific Plan).

EXECUTIVE SUMMARY

The City of Milpitas received an application from Toll Brothers (applicant) requesting a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of a 78-unit townhome condominium subdivision, comprised of 13 multi-family buildings up to 36-feet-4-inches in height, 191 parking spaces, and associated site improvements on a 4.1-acre site located at 675 Trade Zone Boulevard and 1951 Tarob Court in the Trade Zone/Montague Subdistrict of the Transit Area Specific Plan (TASP) area. The application was submitted in accordance with California Senate Bill 330, also known as the Housing Crisis Act of 2019.

The Project consists of eight two-bedroom, 18 three-bedroom, 52 four-bedroom townhome condominium units. All 78 townhome units will have an attached two-car garage. 12 of the four-bedroom units will also have a ground-floor, attached accessory dwelling unit (ADU). All ADUs will be studio units. Twelve of the townhome condominiums (one two-bedroom, three three-bedroom, and eight four-bedroom townhomes) will be reserved for moderate-income households (below 80% Avg. Median Income) to fully comply with the City's Affordable Housing Ordinance.

Since the applicant is restricting the sale of more than 10% of the housing units to moderate-income residents, the Project qualifies for concessions, waivers, and parking reductions under the State Density Bonus Law.

The proposed Project requires approval of five entitlements, as follows:

1. Site Development Permit No. SD22-0006: To allow the development of 13 multi-family buildings, up to three stories in height, with up to 78 townhouse condominiums and 12 accessory dwelling units on the 4.1-acre site; and
2. Conditional Use Permit No. UP22-0002: To allow residential units as condominiums and associated subdivision; and
3. Vesting Tentative Map No. MT22-0002: To establish 78 residential condominium spaces, related common areas, and associated easements; and

4. Density Bonus Permit No. DB22-0001: To ensure compliance with State Density Bonus law and regulations; and
5. Tree Removal Permit No. TR22-0006: To remove 55 ordinance-sized trees and replace them with 196 new trees.

Although not an entitlement, Environmental Assessment No. EA22-0003 was prepared to establish CEQA compliance.

Staff has found the required entitlements comply with the policies, standards, and processes outlined in the State Density Bonus Law, the City of Milpitas 2040 General Plan, the Transit Area Specific Plan (TASP), the Zoning Ordinance, and other provisions of the Milpitas Municipal Code (MMC), and recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA and adopt Resolution No. 22-029, recommending approval of the Project to the Milpitas City Council, subject to the conditions of approval. The balance of this report provides specific details regarding the Project.

BACKGROUND

History

Currently, the project site has two industrial buildings (one approximately 67,082-square feet and the other 110,984-square feet). Light industrial uses have operated within these two buildings for approximately 30 years. However, in mid-2015, the surrounding neighborhood began transforming into multi-family residential uses, consistent with the transit-oriented vision established by the TASP, which was adopted in 2008. The planned extension of South Milpitas Boulevard, including a new bridge over Penitencia Creek, will provide a direct connection to the Milpitas Transit Center from this neighborhood. New trails will provide connections for bicyclists and pedestrians and to local parks.

The project site is located within the Trade Zone/Montague Sub-District of the TASP. This sub-district is located east of Montague Expressway and south of Capitol Avenue, extending to the city limits on Trade Zone Boulevard and Lundy Place. On the Tarob Court side of the sub-district, the TASP envisions a moderate-to-high density residential area, with ample green space in the form of a large park and trails along Penitencia Creek. The Capitol Avenue and Montague Expressway portions of the sub-district are intended to be lined by mid-rise and high-rise mixed-use buildings that buffer the adjacent residential uses from noise and traffic.

In March 2020, the City initiated an update to the TASP and rebranded this effort as the Milpitas Metro Specific Plan (MMSP). The MMSP will continue to manage the transformation of high-density residential neighborhoods into vibrant transit-oriented communities with a mix of housing, retail, entertainment, and employment uses and a safe and attractive network of parks and trails. The continued redevelopment of Tarob Court is highlighted in the MMSP.

In November 2021, Toll Brothers submitted a preliminary application pursuant to California Senate Bill 330 (SB 330) for a 78-unit townhome subdivision. The development will also include 12 ground-floor accessory dwelling units (ADUs). In May 2022, Toll Brothers submitted a formal application for the same townhome housing development. The proposed project will complement the other multi-family residential townhome project (Parkside) recently completed by Toll Brothers in the vicinity. KB Home is also expected to begin construction soon on a 32-unit townhome project on the adjacent parcel at 2001 Tarob Court.

California Senate Bill 330 (Housing Crisis Act)

California Senate Bill 330 (SB 330) is a statewide bill intended to reduce the time to approve housing developments in California. It became effective on January 1, 2020, and Senate Bill 8 (SB 8) recently extended the Act through January 1, 2030. Under SB 330, eligible projects receive enhanced streamlining and vesting opportunities by filing a preliminary application. Those benefits include:

- Freezes the ability of local governments to downzone, adopt new development standards, or change land use in residential and mixed-use areas if the change results in less-intensive uses.
- Allows developers to request approval of housing developments that exceed density and design controls of the underlying zoning if the existing zoning conflicts with the General Plan or a Specific Plan.
- Expedites the permitting process for all housing development and limits the list of application materials that cities can review.

Through the Housing Accountability Act, the state requires a local jurisdiction to approve housing consistent with applicable, objective land use standards. Under the State Density Bonus Law, the state also requires a local jurisdiction to approve waivers and concessions for projects that meet certain affordability requirements. Consistent with state law, planning staff has determined that the Project is consistent with applicable, objective land use standards as provided under SB 330 and meets the requirements for waivers and incentives/concessions under the State Density Bonus Law. A local government agency can deny an eligible housing project only if there is strong evidence that denial is the only way to avoid an adverse impact on public health and safety.

PROJECT DESCRIPTION

Overview

The Project consists of 78 townhome condominium units, 12 attached accessory dwelling units, and associated site improvements, including private alleyways and outdoor amenity spaces. The townhomes will range from 1,256 to 2,211 square feet in size. Six of the four-bedroom townhomes will include a 287-square foot attached accessory dwelling unit (ADU) and the other six four-bedroom townhomes will include a 362-square foot attached accessory dwelling unit. The Project also provides 191 vehicle parking spaces (156 spaces within a garage, 35 surface spaces on-site for visitors). The applicant will also designate 12 affordable townhomes to comply with the City's affordable housing requirement.

The Project is eligible for certain concessions, waivers, and parking incentives under State Density Bonus Law (Gov. Code § 65915 et seq.) because more than ten percent (10%) of the total townhome units will be reserved for moderate-income households, making the units affordable. The "Project Analysis" section of this staff report includes a full discussion of the State Density Bonus provisions related to this Project.

Location and Context

The Project is located on a 4.1-acre site on the north side of Trade Zone Boulevard between Tarob Court and Journey Street. Figure 1 shows the location of the proposed Project:

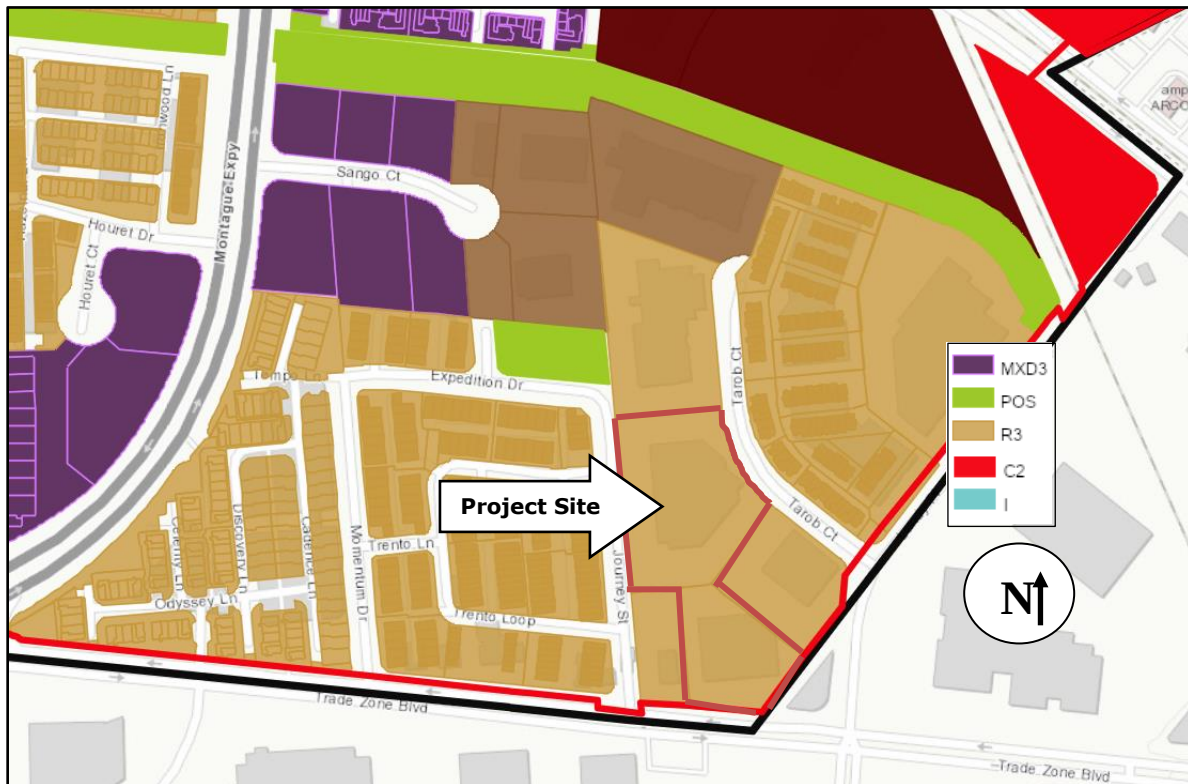
Figure 1 – 675 Trade Zone Boulevard and 1951 Tarob Court

The property is located within the Transit Area Specific Plan (also known as the Milpitas Metro Specific Plan) area and zoned Multi-Family High-Density Residential with a Transit-Oriented Development Overlay (R3-TOD). Table 1 and Figure 2 below summarize the land use designation and surrounding uses of nearby properties:

Table 1: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing Uses
Subject Site	Milpitas Metro Specific Plan	Multi-family High-Density Residential (R3-TOD)	Non-conforming Light Industrial
North	Milpitas Metro Specific Plan	Multi-family High-Density Residential (R3)	Non-conforming Light Industrial
South	City of San Jose	City of San Jose	Light Industrial
East	Milpitas Metro Specific Plan	Multi-family High-Density Residential (R3)	Townhomes
West	Milpitas Metro Specific Plan	Multi-family High-Density Residential (R3)	Townhomes and auto service

Figure 2 – 675 Trade Zone Boulevard and 1951 Tarob Court (Zoning Map)



PROJECT ANALYSIS

This section will evaluate elements of the proposed Project for conformance with the Milpitas 2040 General Plan, the 2008 Transit Area Specific Plan, the Zoning Ordinance, and other provisions of the Milpitas Municipal Code, Senate Bill 330, and State Density Bonus Law.

General Plan Conformance

The General Plan designation for the project site is Milpitas Metro Specific Plan (MMSP), but since City Council has not yet formally adopted the MMSP, the TASP development standards currently apply. The MMSP and TASP standards intend to facilitate the development of higher intensity, mixed-use neighborhoods near the Milpitas Transit Center and encourage walking, biking, and alternative modes of transportation for residents and employees in the immediate area.

The Project is in conformance with the applicable policies and standards in the City's General Plan, as outlined in Table 2:

Table 2: General Plan Consistency

Policy	Conformance
<i>Policy LU 1-4:</i> Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels. The project, as proposed, consists of 78 townhome condominiums and 12 ADUs, ranging from studios to four bedrooms. 12 of the residential units will be reserved for moderate-income households.
<i>Policy LU 5-1:</i> Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and services by retrofitting existing development over time as area improvements or redevelopment occurs.	Consistent. The Project, as proposed, is well integrated with the existing residential developments along Lundy Place and Tarob Court, as the project has a similar architectural style, building height, multi-family product, and site layout. Additionally, the project will gain ingress and egress from both Tarob Court and Journey Street via new driveway curb cuts, and as a result, the project will blend seamlessly into the fabric of the existing community. The project will also be compatible and complementary to future high-density residential development planned for other parcels on Tarob Court which are currently developed with light industrial uses but are zoned for redevelopment as similar high-density residential uses.
<i>Policy LU 5-3:</i> Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.	Consistent. The Project meets the height standards by proposing three-story buildings, up to 36-feet-4-inches in height, in a zoning district that allows a maximum height of 50 feet. The Project's height is consistent with the recently entitled townhome project at 2001 Tarob Court, which will have buildings up to 50 feet in height.

Transit Area Specific Plan Conformance

The TASP/MMSP land use designation for the Project is High-Density, Transit-Oriented Residential. This designation provides for medium-density residential uses within the Trade Zone/Montague Subdistrict. As demonstrated in Table 3, the Project is consistent with the applicable TASP/MMSP land use policies.

Table 3: TASP/MMSP Consistency

Policy	Conformance
Policy 3.4: <i>Provide a variety of housing types for different types of households, different income levels, different age groups, and different life-styles.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels.
Policy 3.2: <i>Affordable housing units should be provided with new housing developments. Determine affordable unit requirements on a project-by project basis, considering the size of the project, the location of the site, and the mix of affordable units in the Midtown Area. Allow housing developments of 12 units or less to pay a fee in lieu of providing affordable units.</i>	Consistent. The Project conforms to the City's Affordable Housing Ordinance and will designate 12 out of the 78 townhome units, or fifteen percent (15%) of the base number of units, for moderate-income level individuals or households.
Policy 3.3: <i>Affordable housing should be integrated into all residential projects.</i>	Consistent. The Project will provide affordable housing through inclusion and design. The applicant will restrict 12 residential units for sale to moderate-income individuals or households and integrate accessory dwelling units into 12 townhome condominiums, providing options in housing.

Zoning Conformance

The project site is zoned R3 Multiple-Family High Density Residential with a Transit-Oriented Development (-TOD) Overlay. As demonstrated in Tables 4 and 5, the project is consistent with most of the applicable development standards for the R3 Multiple-Family High Density Residential Zoning District and TASP/MMSP area. Where the project is not in compliance with objective standards, the State Density Bonus Law requires the City to grant appropriate concessions, waivers, and parking reductions for qualifying projects.

Table 4: Summary of TASP R3-TOD Development Standards

Development Standard (R3-TOD)	Required	Proposed	Conformance
Density	21-40 du/ac	22 du/ac; 90 units total	Yes
Front yard Setback	8 foot-15 foot (max.) from back of sidewalk	15 feet	Yes
Side Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Rear Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Height	75 feet	36-feet-4-inches	Yes
Private Open Space	An average of 200 SF of usable open space shall be provided for each dwelling unit. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. At least thirty (30) percent of required open space shall be contiguous to and provide for private usable open space of the individual dwelling unit. $200 \times 78 = 15,600 \text{ SF} = 0.36 \text{ acres}$ 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.	Private open space (balconies) = 22,330 SF = 30% of 44,295 + 11,250 SF decks and porches Total private open space = 286.3 SF/ unit Private balconies provided for each unit.	Yes
Landscaping	A minimum of twenty-five percent (25%) of the total lot area shall be landscaped or recreational open space, exclusive of parking and vehicular traffic area. $25\% \times 4.1 = 1.03 \text{ acres}/44,295 \text{ SF}$ required	52,870 SF or 1.2 acres (29%)	Yes

In addition, projects located in the TASP/MMSP area must comply with the additional development and design standards outlined in Table 5:

Table 5: Additional Development Standards Applicable in the TASP/MMSP

	Standard	Proposed	Conformance
Projections into Required Yards	Porches, stairs, balconies, bay windows, and awnings may project up to six feet into required setbacks.	Porches, stairs, balconies, bay windows and awnings project under 6' into required setbacks	Yes
Building Orientation and Entrances	Building must face the street, and primary building entrances must be oriented toward the street.	Buildings generally face Tarob Court which is the Project's primary street frontage	Yes
Vehicle Parking	Two to Three Bedroom – 42 spaces Four+ Bedroom – 135 spaces Guest Parking – 35 spaces Total – 212 spaces (146 covered, 66 uncovered)	156 resident spaces 35 guest spaces 191 total (156 covered, 35 uncovered)	Yes, with approval of a Density Bonus waiver
Bicycle Parking	On-street guest racks equivalent to five percent (5%) of the parking requirement. Ten (10) bicycle parking spaces	Ten (10) bicycle parking spaces	Yes
Parking Location	Parking must be located so that it is not visible from the street.	78 private garage entrances face the interior drive aisle	Yes
Parking Garages attached to individual units	Garages may not occupy more than 50% of Ground Level Frontage facing street.	No parking garage is facing the street frontage.	Yes

	Standard	Proposed	Conformance
Parking Access and Curb Cuts	Maximum two curb cuts per lot per street frontage	Two curb cuts along Journey Street and one on Tarob Court	Yes
Park Acreage Requirements	0.08 acres (after payment of TASP/MMSP fee)	0.34 acres	Yes

State Density Bonus Law

To encourage affordable housing production, the State Density Bonus Law (Gov. Code § 65915 et seq.) allows developers to receive a density bonus and other incentives, such as concessions, waivers, and parking reductions, when affordable housing is incorporated within a project. The Density Bonus is a state mandate, and any Project that meets the requirements of the state law is entitled to receive the incentives associated with it.

The applicant may request waivers and concessions under the State Density Bonus Law because the Project reserves more than 10 percent of total units as affordable units for moderate-income households. The Project includes 12 affordable units, which satisfies the 15 percent total units required under the City's Affordable Housing Ordinance. The City must grant any waivers and concessions requested by the applicant for a qualifying project under the State Density Bonus Law.

Table 6 outlines the waivers and parking reductions requested for the proposed Project.

Table 6: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Waiver(s)</i>	Number of Compact Parking Spaces	A request to construct 17 of the 35 onsite guest spaces (49%) as compact stalls, when a maximum of 40% is allowed per MMC.	A greater number of compact stalls is necessary in order to provide the required number of guest spaces.	This waiver is allowed under State Density Bonus Law and must be granted by the City.

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Waiver(s)</i>	90-Degree Stall Depth	To construct 90-degree guest parking stalls with a stall width of 9 feet and stall depth of 16 feet, where 9 feet and 18 feet are required	A reduction in the 90-degree guest parking stall depth is necessary in order to physically construct the proposed development.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Parking Waiver</i>	Vehicle Parking Reduction	To provide 191 vehicle parking spaces when 212 vehicle parking spaces are required per MMC.	The State Density Bonus Law provides a reduction in the minimum parking requirements for qualifying projects	A waiver of minimum parking standards is allowed under State Density Bonus Law and must be granted by the City.

Off-Street Parking Standard Waivers

MMC Section XI-10-53.07(B) allows parking areas and garages containing ten (10) or more stalls serving multi-family residential uses within the R3 zones up to 40% of the required and non-required stalls to be designated as compact stalls. This equates to a maximum number of 14 compact stalls. MMC Section XI-10-53.13(B)(2)(b) also states that compact parking stalls shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls. However, the applicant has proposed 17 compact guest stalls, with 14 of the stalls clustered together in a row along Court C. A greater proportion of compact stalls, as well as the grouping of the stalls together, are necessary in order to provide the required number of guest spaces and facilitate the physical construction of the proposed development.

Additionally, MMC Table XI-10-53.13-1 requires 90-degree parking stalls to be nine-feet wide and 18-feet deep. However, the applicant has proposed to construct the 90-degree parking stalls at a stall width of nine-feet wide and 16-feet deep. A reduction in the 90-degree guest parking stall depth is necessary in order to physically construct the proposed development and provide the required number of guest spaces.

Parking Incentives

Under the State Density Bonus Law, an applicant who qualifies for a density bonus may propose reduced parking standards. Projects located in the TASP area typically require 1.6 to 2.0 vehicle parking spaces for each two- and three-bedroom unit. The project must also provide an additional 20% vehicle parking for guests. However, under State Density Bonus Law and upon a developer's request, the City must allow a reduction in vehicle parking, as shown in Table 7.

Table 7: Maximum Parking Requirements (under State Density Bonus Law)

Type of Unit (or Guest Parking)	Number of Vehicle Parking Spaces
Accessory Dwelling Units	Zero space (if within one-half mile of walking distance of public transit)
Studio and One Bedroom	One space
Two-Bedroom and Three-Bedroom	1.5 spaces
Four-Bedroom	2.5 spaces
Guest Parking	Zero spaces

The applicant has requested reduced parking standards and has proposed to provide the following, as demonstrated in Table 8.

Table 8: Parking Analysis (under State Density Bonus Law)

Land Use	Unit Count	Rate	Maximum Spaces Required	Spaces Provided	Notes
Two-bedroom and Three-bedroom	26	1.5 / unit	39	52	
Four- bedroom	52	2.5 / unit	135	104	
ADU	12	0 / unit	0	0	
Guest Parking	N/A		0	35	Included as part of the total number of parking spaces required under the State Density Bonus Law
Total			174	191	

As noted in the Project Description, each two-bedroom and three-bedroom unit will include a two-car garage, and each four-bedroom unit will also include a two-car garage. In addition, 35 additional surface parking spaces will be provided for guests along internal Street B, Street C, and Court C, making a total of 191 vehicle spaces and consistent with the reduced parking standard under the State Density Bonus Law.

Subdivision Ordinance

The Project's form, content, and dedications of the proposed tract map have been reviewed by the City of Milpitas Engineering Department and deemed consistent with the provisions of MMC Section XI-1-4 (Tentative Maps), as outlined in Resolution No. 22-029. Tentative Maps require approval of a Resolution by the Planning Commission recommending final approval by the City Council.

Architectural Design

The Project's design concept includes three-story building heights consistent with existing and planned residential development along Tarob Court and Journey Street. The contemporary design includes the following design accents and materials:

- Roof: Composition Shingle
- Exterior: Stucco Finish with Fiber Cement Siding and Hardie Panel Siding
- Accents: El Dorado Stone, and Metal Railings
- Window/Door Trim: Fiber Cement Trim
- Entry Door: Contemporary Front Entry Door with Sidelite
- Garage Door: Cloplay Steel Garage Door with Contemporary Slim Windows

The Project conforms to the Transit Area Specific Plan design guidelines, which require orientation of the building to the street, well-articulated exterior walls with consistent style and materials, muted colors for primary building walls with richer accent colors, and integrated parking. Furthermore, the Project has a similar architectural style to the Parkside development located across the street on Tarob Court. A rendering of the Project is shown in Figure 3.

Figure 3 – Proposed Project Facing South towards Trade Zone Boulevard



The applicant has provided an exhibit with proposed colors and materials for review by City staff and the Planning Commission, as demonstrated in Figure 4.

Figure 4 – Colors and Materials Board**Tree Removal and Landscaping Requirements**

The Project includes removal of 95 existing trees, including 55 protected trees, from the project site. Pursuant to MMC Title X, Chapter 2 (Tree Maintenance and Protection), the project will plant two replacement trees for every one protected tree that is removed, or 110 new trees planted on the site. The Project will be planting 196 new trees on site. Other new landscaping will include various shrubs, grasses, and vines (New Zealand Flax, Manzanita, Reed Grass, and Creeping Fig) as demonstrated in Figure 5.

Figure 5 – Landscape Plan

Parkland and Open Space Requirements

The TASP requires all new developments to provide 3.5 acres of parkland for every 1,000 persons or payment of park in-lieu fees, as allowed by MMC Section XI-1-9 (*Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes*). The Parkland Fee is based upon the estimated number of persons expected to reside in the development (per U.S. Census definitions) and the estimated value of parkland in the City of Milpitas (currently \$2,787,840 per acre).

The City estimates 2.49 people will occupy each unit. The Project proposes 78 units, resulting in an estimated population of 194 persons. Based on this population estimate, the applicant must provide 0.68 acres of parkland, equivalent to approximately \$1,895,090.

All projects in the TASP area are required to pay a Transit Area Development Impact Fee (TADIF). A portion of that fee pays for parkland. The park portion of the TASP fee for this project is valued at \$1,682,023.98, equivalent to 0.6 acres of parkland. This amount will be applied to the Project's parkland requirement, leaving a delta of 0.08 acres to be satisfied.

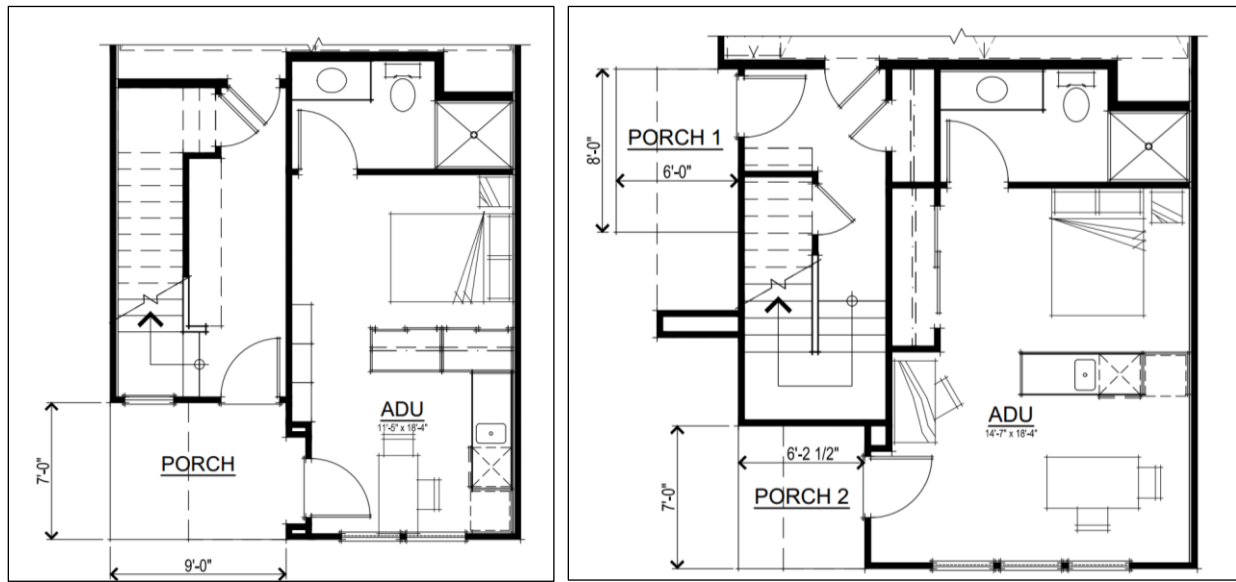
To satisfy the 0.08-acre delta, the applicant has incorporated 0.34 acres as private recreation space on-site, as permitted by MMC Section XI-1-9. For example, each townhome has private balconies totaling 22,330 square feet. In addition, the Project includes an additional 52,870 square feet of on-site residential open space. The parkland requirement is met by designing these elements into the project, as demonstrated in Table 9 below.

Table 9: Parkland Requirements Analysis

Toll Brothers Townhomes Proposed	78
Toll Brothers Townhomes Population Estimate (2.49 persons/unit per Census)	194 persons
TASP Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
Total Parkland Acreage or In-Lieu Fee Required	0.68 acres / \$1,895,090
Amount Satisfied Through TASP Fees (Acreage/Dollars)	0.6 acres / \$1,682,023.98
Remaining Parkland Acreage or In-Lieu Fee Required	0.08 acres / \$231,066.02
Private Recreation/Open Space Included in the Project	0.34 acres
Balance of Parkland Acreage or In-Lieu Fee Due	0.00 acres / \$0

Accessory Dwelling Units

The Project includes 12 attached ADUs located on the ground floor of 12 four-bedroom townhome condominiums. Each integrated ADU is designed as a studio unit with a living/sleeping area, bathroom, kitchenette, and separate front door entrance, as demonstrated in Figure 6 below.

Figure 6 – Townhome/ADU Floor Plan

Although the proposed ADUs are considered residential units (for density purposes), their integral design limits the City's ability to charge development fees (such as TADIF or Park-In Lieu Fees). Per Government Code Section 65852.2. (f)(3)(A), *A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet.* Six of the proposed ADUs will be approximately 287 square feet in size and the other six proposed ADUs will be approximately 362 square feet in size, thus qualifying for the impact fee exception under State law.

Affordable Housing Ordinance

According to MMC Section XII-1-3.00 (Affordable Housing), the applicant must reserve fifteen percent (15%) of the total number of dwelling units within the development as affordable units. The applicant proposes to meet the City's affordable housing requirement by reserving twelve units on-site for moderate-income households. The project has been conditioned to execute an agreement imposing appropriate ownership controls on the affordable units.

Traffic and Access

Vehicular access to the project site will be provided two driveways with direct ingress/egress from Journey Street and one driveway with direct ingress/egress from Tarob Court. An internal private street grid will provide access to 78 private residential garages with a total of 156 vehicle parking spaces. In addition, 35 guest parking spaces will be provided along Street B, Street C, and Court C, including two ADA-compliant spaces and three electric vehicle (EV) parking spaces. The EV parking spaces will provide full charging facilities.

Grading

The proposed Project would result in the demolition of all existing structures, paving, and landscaping on the subject site. In addition, the applicant would import 16,100 cubic yards of fill to pad the site and increase the finish grade heights to meet flood zone requirements.

Utilities

The project site is located in an urban area and is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. All public utilities will be provided to the Project site.

Climate Action Plan

The City of Milpitas Climate Action Plan (CAP) was adopted in 2013 and included Greenhouse Gas (GHG) reduction goals, policies, and actions for new and existing development projects. The Project would follow these goals and policies by locating future residents near public transportation, jobs, restaurants, and services. The City recently adopted the Climate Action Plan Update on August 9, 2022. In addition, the Project would incorporate green building measures in compliance with CAL Green standard building measures for residential buildings and Title 24 requirements to reduce energy usage.

Development Fees

The Project is subject to the following impact fees:

TASP Impact Fee

The TASP impact fee is currently set at \$47,550/unit for residential uses for the Fiscal Year 2022-2023. Based on the development of 78 residential units, the estimated TASP impact fee for this Project is \$3,708,900 (\$47,550/unit x 78 units). This fee is automatically adjusted each fiscal year in conjunction with the City's annual budget process. The applicant must pay the fee before the issuance of building permits.

Parkland Impact Fee

A portion of the TASP impact fee includes a portion of the parkland in-lieu fee. Therefore, by paying the TASP impact fee and developing 0.34 acres of public and private open space, the applicant will meet the parkland fee requirement without paying additional parkland fees.

Public Art Fee

The Project will comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. This fee is currently set at one-half of one percent of building development costs. The proposed Project will pay the fee based on the construction valuation at the building permit issuance.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Vesting Tentative Map

To approve the Major Vesting Tentative Subdivision Map, the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-20.01:

1. *The tentative subdivision map is consistent with the General Plan.*

The General Plan designation for the project site references MMSP, but since City Council has not formally adopted the MMSP, the TASP development standards currently apply. Both the MMSP and TASP standards intend to facilitate the development of higher intensity, mixed-use neighborhoods near the Milpitas Transit Center and encourage walking, biking, and alternative modes of transportation.

The TASP designates this project site as High Density, Transit Oriented Residential (HD-TOR). The intent of this designation is to provide high-density housing at a density range of 21-40 dwelling units/acre. As this project proposes 22 dwelling units/acre, it is consistent with both the intended land use of the General Plan and the relevant density requirement. In addition, the Housing Element does not identify the project site for yielding affordable housing units. Therefore, there is no net loss of affordable housing opportunities.

Furthermore, the Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2.

2. *None of the conditions identified in California Government Code Section 66474 exist, to wit:*

A. *The proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.*

As outlined above, the Project includes the development of 78 residential condominium units at a density of 22 dwelling units/acre. The General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan land use designation applicable to the site (Milpitas Metro Specific Plan (MMSP), and High Density, Transit-Oriented Residential (HD-TOR)) permits residential development at densities of 21 to 40 dwelling units/acre. The map is therefore consistent with the General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan.

B. *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

The Project proposes 22 dwelling units per acre, consistent with the 21-40 dwelling units per acre allowed by the general plan and corresponding specific plans. Additionally, the Project is consistent with the policies associated with the MMSP/TASP, as identified in Tables 3 and 5, except for vehicle parking, which is allowed per State Density Bonus Law.

C. *The site is not physically suitable for the type of development.*

The site is surrounded by property designated for high density, transit-oriented residential development under the City's General Plan and zoned for this type of development under the Milpitas Metro Specific Plan/Transit Area Specific Plan. In addition, this site is suitable for the higher density development based on the location, physical attributes, and proposed infrastructure improvements.

D. That the site is not physically suitable for the proposed density of development.

The project site is within the MMSP/TASP specific plan designation of High Density, Transit Oriented Residential (HD-TOR), permitting residential development at 21 to 40 dwelling units/acre. The design will physically suit the site by providing required utilities, sufficient open space, and adequate residential living facilities.

E. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The Project, including the subdivision and its associated improvements, is located in an urbanized area and was previously developed as two industrial buildings. Therefore, it will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

F. The design of the subdivision or type of improvements is likely to cause serious public health problems.

The Project, including the subdivision and its associated improvements, has been designed in a manner that will not cause serious public health problems. The Project has been reviewed by Building, Fire, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that it can be adequately serviced to preserve public health and wellness.

G. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Upon review of the subdivision map, it has been determined that the design of the subdivision or the type of improvements will not conflict with any easements acquired by the public at large, for access through or use of, property within the proposed subdivision. The subdivision does not involve the vacation of easements, however, the existing right-of-way will be abandoned and portions of the area will be retained for a Public Services Utility Easement (PSUE).

Site Development Permit

To approve the Site Development Permit, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.03(F):

1. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.

The project's site design is consistent with the MMSP/TASP development standards for the Trade Zone/Montague Sub-district. The project consists of 78 condominium units and associated site amenities on a 4.1-acre site. The building's contemporary architectural design visually relates to and is compatible with the adjacent townhome projects along Tarob Court and Journey Street. Colors are earth tone shades of browns and grays with

portions of yellow vertical siding. In addition, future residents will access garages via private alleyways, similar to nearby residential developments.

2. *The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 4. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the R3-TOD standards are needed, the applicant has requested waivers and parking exceptions under the State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

3. *The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2.

4. *The Project is consistent with the Transit Area Specific Plan.*

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/MMSP, as demonstrated in Tables 3 and 5. As the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

Conditional Use Permit

To approve the Conditional Use Permit, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.04(F):

1. *The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.*

The Project will not be detrimental or injurious to property or improvements in the vicinity or public health, safety, or general welfare. The Project is consistent with other multi-family residential projects within the TASP and conditioned to preserve the health and wellness of future residents. In addition, the condominium project creates housing opportunities and increases the diversity of housing types in the TASP area by utilizing accessory dwelling unit provisions.

2. *The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 4. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone. Therefore, a conditional use permit is required to allow the subdivision of the proposed townhome units.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD3 standards are needed, the applicant has requested waivers and parking exceptions pursuant to the State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

3. *The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2.

4. *The Project is consistent with the Transit Area Specific Plan.*

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/MMSP, as demonstrated in Tables 3 and 5. As the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

Density Bonus Permit

To qualify for a Density Bonus Permit, the following standards must be met pursuant to Milpitas Municipal Code Section XI-10-54.15(D):

1. *The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The proposed Project includes 78 townhome condominiums and 12 accessory dwelling units, equaling to 22 dwelling units per acre, meeting the General Plan density allowed in the immediate area.

2. *All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Redevelopment Agency modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

The applicant has proposed one two-bedroom, three three-bedroom, six four-bedroom, and two four-bedroom with ADUs as affordable units reserved for moderate-income households, in order to meet the requirement to develop fifteen percent (15%) of the total residential units into affordable units, which equates to 12 units. The approximate locations for the proposed 12 units have been identified and approved by the Housing Department as being adequately dispersed throughout the site.

3. *Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project has been conditioned to provide an agreement to the City of Milpitas explaining the affordability requirements, processes and procedures, to the satisfaction of the Milpitas City Attorney prior to the release of any Certificate of Occupancy.

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Prior to final building inspection and occupancy for the Project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements, including continued affordability for moderate-income households. The agreement shall be approved by the Milpitas City Attorney prior to recordation.

5. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The standard is not applicable to the Project, as the Project is creating townhome condominiums for sale, rather than for rent. Affordability provisions will be assessed on the sale of the individual condominium.

6. *Relation to Statute. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code section 65915, et seq.*

The developer has identified and requested bonus incentives held within the State Density Bonus Law, and the Planning Department supports this request.

ENVIRONMENTAL REVIEW

An environmental assessment was conducted according to the California Environmental Quality Act of 1970 (CEQA), as amended, and state and local guidelines implementing CEQA. The proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15183.3(b) (Residential Infill). An exemption is the appropriate CEQA determination for the proposed project. Exhibit 2 of Exhibit A of the Resolution for the proposed Project is a memorandum demonstrating compliance with CEQA Guidelines Section 15183.3(b).

As a separate and independent basis, the project is also exempt from further CEQA review pursuant to CEQA Guidelines Section 15182 (Projects Consistent with a Specific Plan) because the project is a residential project that is generally consistent with Transit Area Specific Plan (Milpitas Metro Specific Plan). Therefore, no further environmental review is required.

PUBLIC COMMENT/OUTREACH

Staff provided public notice of the application in accordance with City and State public noticing requirements. At the time of publishing this report, no public comments have been received. A notice was published in the Milpitas Post on December 2, 2022. In addition, notices were sent to all owners and occupants within 1000 feet of the project site. A public notice was also posted at the project site, on the City's Website, www.milpitas.gov, and at City Hall. Lastly, the project description, project plans, and CEQA exemption memo were posted to the City's Website as an "Online Public Forum."

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing;
3. Consider the exemptions in accordance with CEQA; and
4. Adopt Resolution No. 22-029, recommending that the City Council approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval.

ATTACHMENTS

A: Resolution No. 22-029 with Conditions of Approval
 B: CEQA Memorandum
 C: Project Plans



CITY OF MILPITAS

Planning Commission

Item # 7.

MEETING MINUTES

7:00 PM

Wednesday, December 14, 2022

CITY COUNCIL CHAMBERS

455 E CALAVERAS BLVD, MILPITAS, CA

and

via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER	Chair Chuan called the meeting to order at 7:00 PM.
PLEDGE OF ALLEGIANCE	Commissioner Galang led the pledge of allegiance.
ROLL CALL	Recording Secretary Elizabeth Medina called the roll. PRESENT: Chair Chuan, Vice Chair Ciardella, Commissioners Albana, Galang, Awasthi, and Medina-Ashby ABSENT: Mohsin STAFF: Ned Thomas, Michael Mutalipassi, Kevin Riley, Jane Lin, Christina Paul, Michael Fossati, Bill Tott, Elizabeth Medina
CONFLICT OF INTEREST DECLARATION	City Attorney Michael Mutalipassi asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda and there were none.
APPROVAL OF THE MEETING AGENDA	By motion, approve the meeting agenda for December 14, 2022. Motion/Second Awasthi/Medina-Ashby Motion carried by a vote of AYES: 6 NOES: 0
APPROVAL OF THE MEETING MINUTES	By motion, approve the meeting minutes for November 9, 2022. Motion/Second Medina-Ashby/Albana Motion carried by a vote of AYES: 6 NOES: 0
ANNOUNCEMENTS	Planning Director Thomas shared information about the upcoming League of California Cities 2023 Planning Commissioners Academy in Garden Grove that will be held in March 2023. If a commissioner is interested, they are to contact Liz to register.
PUBLIC FORUM	Chair Chuan invited members of the public to address the commission and there were none.
PUBLIC HEARING	IX-1 Draft Milpitas Metro Specific Plan (Transit Area Specific Plan Update) and Final Subsequent Environmental Impact Report (SEIR): Review and discuss the Final Milpitas Metro Specific Plan Subsequent Environmental Impact Report (SCH#: 2006032091) and Milpitas Metro Specific Plan, which updates the

2008 Transit Area Specific Plan (TASP), including expansion of the boundaries of the Plan area and increasing the development potential and infrastructure of the Metro Plan area, and provide a recommendation for approval to the Milpitas City Council. Project Manager: Kevin Riley, (408) 586-3292, kriley@milpitas.gov

Project Manager Kevin Riley and consultants [Jane Lin/Urban Field, Christina Paul/M-Group, Kristi Black/ICF) revisited the presentation of the overview of the Plan from the November 9th meeting.

Chair Chuan invited members of the public to address the commission and the following community members spoke: Lola Torney, VTA, Urvishkumar Mehta, and Barbara Navarro.

Motion to close the Public Forum.

Motion/Second Albana/Medina-Ashby

Motion carried by a vote of AYES: 6 NOES: 0

Recommendation: Staff recommends that the Planning Commission conduct a public hearing and adopt Resolution No. 22-025 recommending that the City Council certify the Milpitas Metro Plan Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopt the Milpitas Metro Specific Plan.

Motion/Second Galang/Albana

Motion carried by a vote of AYES: 6 NOES: 0

IX-2 TOLL BROTHERS TOWNHOMES + ADUs (SB 330) - 675 Trade Zone Boulevard and 1951 Tarob Court - P-SD22-0006, P-UP22-0002, P-TR22-0006, P-MT22-0002, P-EA22-0003, P-DB22-0001: A Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Tree Removal Permit, Environmental Assessment, and Density Bonus Permit to allow demolition of two industrial buildings, removal and replacement of 55 ordinance-size trees, and development of a multi-family residential project with 78 townhomes and 12 accessory dwelling units. The residential development will consist of 13 multi-family residential buildings up to 36 feet-4 inches in height (three stories), with 191 vehicle parking spaces and associated site improvements on a 4.1-acre site located in the High Density Residential (R3-TOD) Zoning District with a Transit Oriented Development Overlay at 675 Trade Zone Boulevard and 1951 Tarob Court. The Project is located within the Transit Area Specific Plan (TASP) Area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). Project Planner: Michael Fossati, (408) 586-3274, mfossati@milpitas.gov

Project Planner Michael Fossati, applicant Nick Kosla (Toll Brothers) and City staff addressed clarifying questions related to parking (guests, EV, disabled), trees/landscaping, demolition timeline and process,

Chair Chuan invited members of the public to address the commission and the following community members spoke: Urvishkumar Mehta and Barbara Navarro.

Motion to close the Public Forum.

Motion/Second Medina-Ashby/Ciardella

Motion carried by a vote of AYES: 6 NOES: 0

Recommendation: Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA, and adopt resolution No. 22-029, recommending that the City Council approve Site Development Permit No. SD22-0006, Conditional Use Permit No. UP22-0002, Vesting Tentative Map MT22-0002, Density Bonus Permit No. DB22-0001, Tree Removal Permit No. TR22-0006 and Environmental Assessment No. EA22-0003, subject to the Conditions of Approval.

Motion/Second Albana/Ciardella

Motion carried by a vote of AYES: 6 NOES: 0

NEW BUSINESS

NO ITEMS

ADJOURNMENT

Chair Chuan adjourned the meeting at 8:20 pm

Motion/Second Ciardella/Awasthi

Motion carried by a vote of AYES: 6 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina

TOLL BROS TAROB - GEOMAX



APPLICANT:
TOLL BROTHERS
6800 KOLL CENTER PARKWAY, SUITE 320
PLEASANTON, CA 94566
ATTN: NICK KOSLA
(925) 249-6022

ARCHITECT:
SDG ARCHITECTS, INC.
3361 WALNUT BLVD., SUITE 120
BRENTWOOD, CA 94513
ATTN: SCOTT PRICKETT
925.634.7000

CIVIL ENGINEER:
RJA ENGINEERS
4690 CHABOT DRIVE, SUITE 200
PLEASANTON, CA 94588
ATTN: DOMINIC CARUCCI, PE
(925) 227-9100

LANDSCAPE ARCHITECT:
R3 STUDIOS, INC.
248 3RD STREET SUITE 202
OAKLAND, CA 94607
ATTN: ROMAN DESOTA
510.452.1490



SHEET INDEX

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A01	AERIAL SITE PHOTOGRAPH & ARCHITECTURAL SITE PLAN
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A04	UNIT 2 FLOOR PLANS
A05	UNIT 3 FLOOR PLANS
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A29	COLOR & MATERIALS
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CIVIL

TM1.0	VESTING TENTATIVE MAP
TM2.1	EXISTING CONDITION PLAN
TM2.2	TREE DISPOSITION PLAN
TM3.1	SITE DEVELOPMENT PLAN
TM3.2	PROPOSED LOTTING PLAN
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TM5.1	PRELIMINARY UTILITY PLAN
TM6.1	PRELIMINARY STORMWATER TREATMENT PLAN
TM6.2	TYPICAL STORMWATER DETAILS
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TM8.1	FIRE ACCESS PLAN
TM9.1	PRELIMINARY SOLID WASTE MANAGEMENT PLAN
TM10.1	PRELIMINARY SIRE ACCESSIBILITY PLAN
TM11.1	OPEN SPACE PLAN

LANDSCAPE

L-1	ILLUSTRATIVE SITE PLAN
L-2	PRELIMINARY LANDSCAPE PLAN
L-3	PROPOSED PLANT PALETTE
L-4	LIGHTING LOCATION PLAN



SITE KEY:	
#	- BUILDING NUMBER
Orange	- UNIT 1
Light Orange	- UNIT 2
Yellow	- UNIT 3
Light Yellow	- UNIT 4
Brown	- ADU
Wheelchair icon	- ADA UNIT PER CBC SEC. 1102A.3

SITE DATA

SITE AREA: ± 4.1 AC

DWELLING UNITS: 78

ADUs: 12

TOTAL: 90

NET DENSITY 78/4.1 = 19.0 DUA

RESIDENTIAL PARKING REQ'D PER DENSITY BONUS:

26 (2 AND 3 BEDROOM UNITS) X 2.0 = 52

52 (4 BEDROOM UNITS) X 2.5 = 130

TOTAL SPACES REQ'D: 182

RESIDENTIAL PARKING PROVIDED: 191**OWNERSHIP TYPE**

FOR-SALE PROJECT

BUILDING INFORMATION**HEIGHT**

ALLOWABLE HEIGHT: 75'

PROPOSED HEIGHT: 36'-4" MAX HT., SEE BUILDING ELEVATIONS
29'-8" TYP. EAVE HT.**BUILDING CODE INFORMATION**

- CODE REFERENCE: 2019 CALIFORNIA BUILDING CODE / CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
- OCCUPANCY TYPE: R-2 PER 2019 C.B.C WITH COMMON 1-HR. WALL SEPARATIONS CONSTRUCTION TYPE: V-B (NON-RATED)
- ALLOWABLE AREA: 21,000 SF X 2 = 42,000 SF
- BUILDING AREA CALCULATIONS: SEE TABLE
- FIRE SPRINKLER SYSTEM: NFPA 13

ACCESSIBILITY

CODE REFERENCE: PER 2019 CBC CHAPTER 1102.3

REQUIRED: 10% OR 8 UNITS TO BE ADAPTABLE ON AN ACCESSIBLE PATH PROVIDED: 8 UNITS

ACCESSORY DWELLING UNITS (ADU)

ACCESSIBILITY REQUIRED PER CBC 1104A.1

UNIT AREAS:

PLAN 3 - ADU: 287 SF

PLAN 4 - ADU: 632 SF

ELIGIBLE PRIVATE OPEN SPACE: DECKS

NOTE: PORCHES ARE NOT ELIGIBLE

DECKS	QTY.	AREA EA.	COMBINED AREA
UNIT 1	8	73 SF	584 SF
UNIT 2	18	137 SF	2,466 SF
UNIT 3	24	125 SF	3,000 SF
UNIT 3-ADU	6	177 SF	1,062 SF
UNIT 4	16	169 SF	2,704 SF
UNIT 4-ADU	6	239 SF	1,434 SF
TOTAL			11,250 SF

Building Areas by Occupancy				
Building #	R-2	U	Total Building Area	Private Open Space*
Building 1	12,027	2,716	14,743	1,362
Building 2	10,126	2,255	12,381	1,171
Building 3	11,838	2,734	14,572	1,194
Building 4	14,331	3,856	18,187	1,524
Building 5	14,331	3,856	18,187	1,524
Building 6	14,331	3,856	18,187	1,524
Building 7	14,331	3,856	18,187	1,524
Building 8	13,743	3,195	16,938	1,373
Building 9	8,036	1,812	9,848	812
Building 10	6,131	1,351	7,482	633
Building 11	11,838	2,734	14,572	1,194
Building 12	9,937	2,273	12,210	1,003
Building 13	8,036	1,812	9,848	812
Total Across Site	149,036	36,306	185,342	15,650

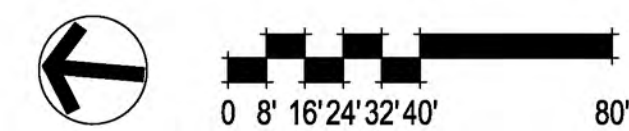
Townhome Units					
Unit	Total Unit SF	Private Open Space SF*	Private Garage SF	BRs	Baths
1	1,256	105	562	2	2.5
2	1,901	191	461	3	3.0
3	1,905	179	461	4	3.5
3-ADU	1,996	244	443	4	3.5
4	2,113	227	445	4	3.5
4-ADU	2,211	330	445	4	3.5

Unit & Building Totals							
Building #	Unit 1	Unit 2	Unit 3	Unit 3 ADU	Unit 4	Unit 4 ADU	Total
Building 1	0	2	1	1	1	1	6
Building 2	0	1	1	1	1	1	5
Building 3	0	2	2	0	2	0	6
Building 4	2	2	2	1	0	1	8
Building 5	2	2	2	1	0	1	8
Building 6	2	2	2	1	0	1	8
Building 7	2	2	2	1	0	1	8
Building 8	0	2	3	0	2	0	7
Building 9	0	0	2	0	2	0	4
Building 10	0	0	1	0	2	0	3
Building 11	0	2	2	0	2	0	6
Building 12	0	1	2	0	2	0	5
Building 13	0	0	2	0	2	0	4
Total Unit Count	8	18	24	6	16	6	78
Unit Count %	10	24	31	8	19	8	100
Bedroom Count per Unit	2	3	4	4	4	4	
Total Bedroom Count	16	54	96	24	64	24	278
Total Private Open Space*	840	3,438	4,296	1,464	3,632	1,980	15,650
Total Living Area	10,048	34,218	45,720	11,976	33,808	13,266	149,036

*INCLUDING BOTH ELIGIBLE & INELIGIBLE PRIVATE USABLE OPEN SPACE.
SEE BELOW LEFT FOR ELIGIBLE PRIVATE OPEN SPACE ONLY, AS DEFINED
PER MILPITAS MUNI CODE. SEC X1-10-54.12.



VICINITY MAP N.T.S.



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Milpitas, CA
October 7, 2022

Toll Brothers

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AERIAL SITE PHOTOGRAPH & ARCHITECTURAL SITE PLAN
A01

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SITE KEY:

#

- BUILDING NUMBER

- UNIT 1

- UNIT 2

- UNIT 3

- UNIT 4

- ADU

- ADA UNIT

- - -

- ACCESSIBLE PATH OF TRAVEL
MIN. 48" WIDE CONTINUOUS ACCESSIBLE ROUTE
TO ACCESSIBLE PARKING AND PUBLIC WAY

- BMR

UNIT ID	UNIT SIZE	PROPOSED BY DEVELOPER	PROPORTION TO DEVELOPMENT	AHO REQUIREMENT
UNIT 1	2BR	1	10%	1
UNIT 2	3BR	2	24%	3
UNIT 3	4BR	5	31%	4
UNIT 3 ADU	4BR	0	8%	1
UNIT 4	4BR	0	19%	2
UNIT 4 ADU	4BR	0	8%	1

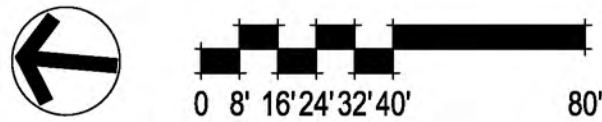
TERMS OF THE AFFORDABLE HOUSING ORDINANCE

- A. THE INTERIOR AMENITIES IN THE AFFORDABLE UNITS WILL NOT DIFFER FROM MARKET RATE UNITS.
- B. THE SCHEDULE FOR PRODUCTION OF AFFORDABLE UNITS IN PHASED RESIDENTIAL DEVELOPMENT WILL BE CONCURRENT WITH THE MARKET RATE UNITS.
- C. ALL AFFORDABLE UNITS SHALL BE REASONABLY COMPARABLE IN TERMS OF FLOOR PLAN AND BASE FINISH AMENITIES TO MARKET RATE UNITS IN THE PROPOSED DEVELOPMENT.
- D. THE QUALITY OF THE EXTERIOR DESIGN, LANDSCAPING, AND CONSTRUCTION OF THE AFFORDABLE UNITS SHALL BE CONSISTENT WITH THE OTHER UNITS IN THE PROPOSED DEVELOPMENT.
- E. AN EXECUTED AGREEMENT IMPOSING APPROPRIATE OWNERSHIP CONTROLS ON THE AFFORDABLE UNITS IS REQUIRED. THIS WILL BE COMPLETED DURING THE BUILDING PERMIT PROCESS.
- F. THIS IS A FOR-SALE PROJECT.
- G. ALL ACCESSORY DWELLING UNITS ARE MARKET RATE UNITS.

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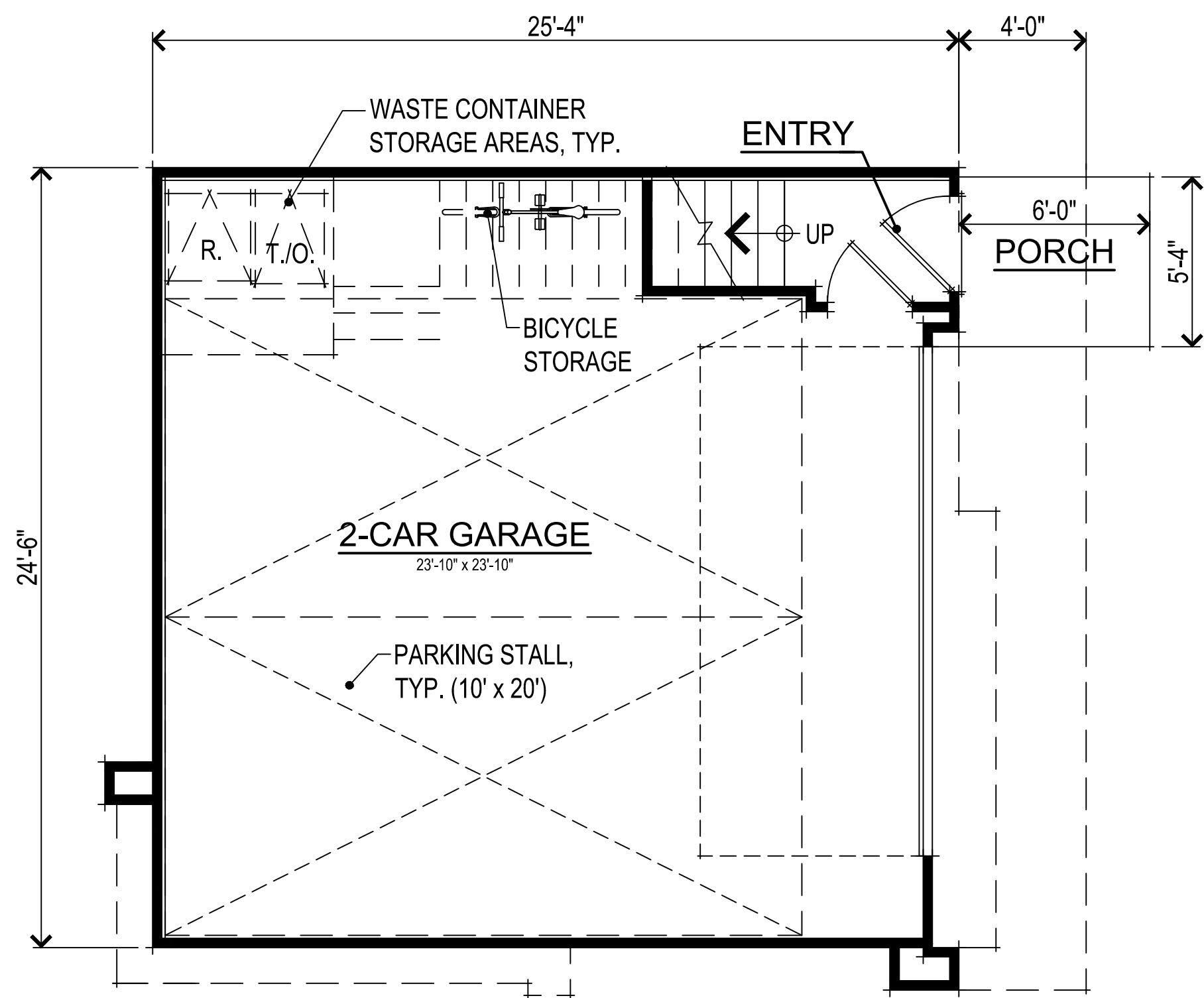
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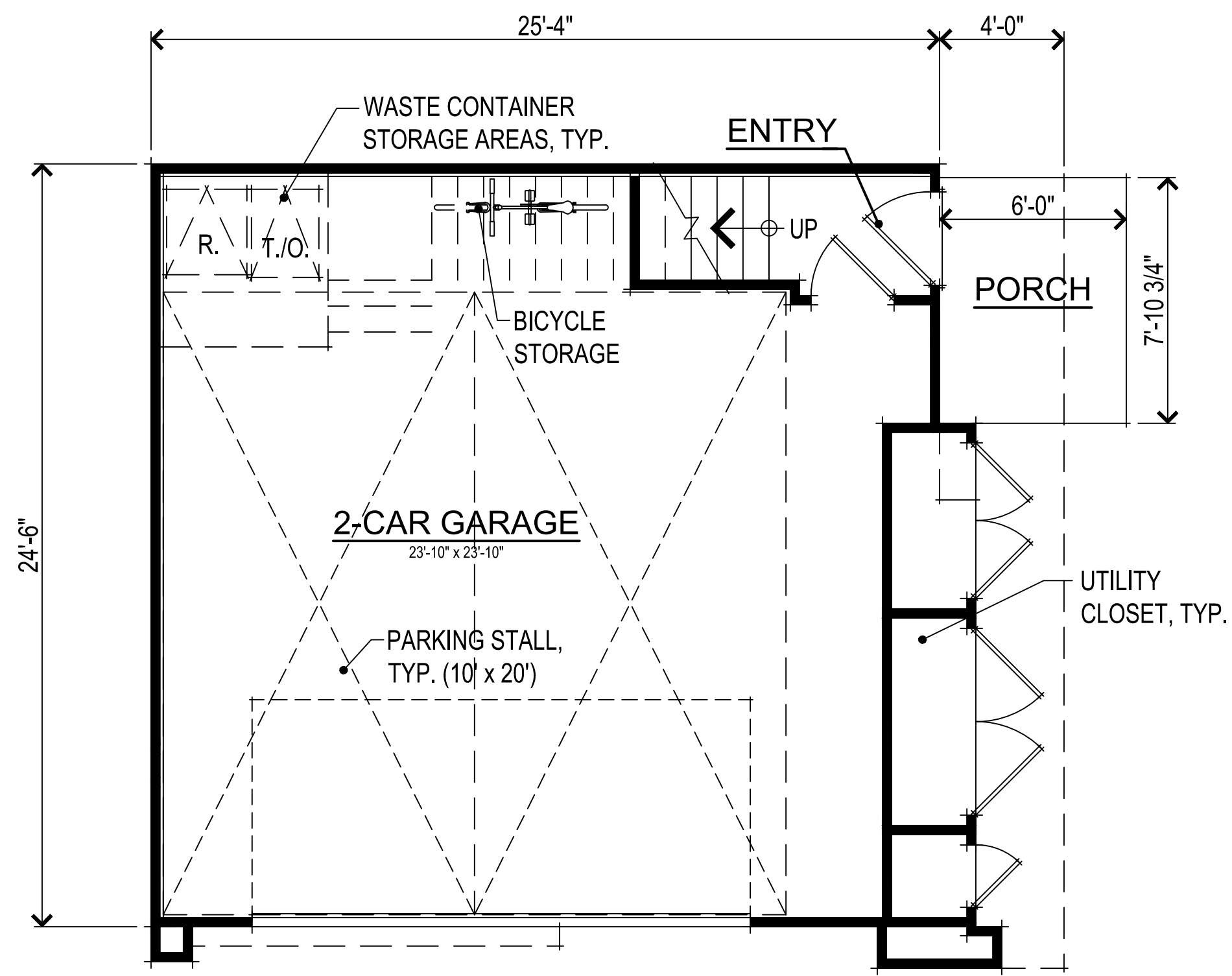
AFFORDABLE HOUSING PLAN
A01.1

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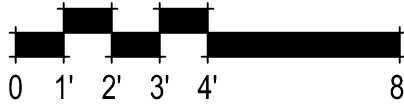


FIRST FLOOR PLAN



FIRST FLOOR PLAN - ALT

UNIT 1 SQUARE FOOTAGES	
FIRST FLOOR	42 SQ. FT.
SECOND FLOOR	584 SQ. FT.
THIRD FLOOR	630 SQ. FT.
TOTAL LIVING	1256 SQ. FT.
2-CAR GARAGE	562 SQ. FT.
PORCH	32 SQ. FT.
DECK	73 SQ. FT.



UNIT 1 FLOOR PLANS
A02

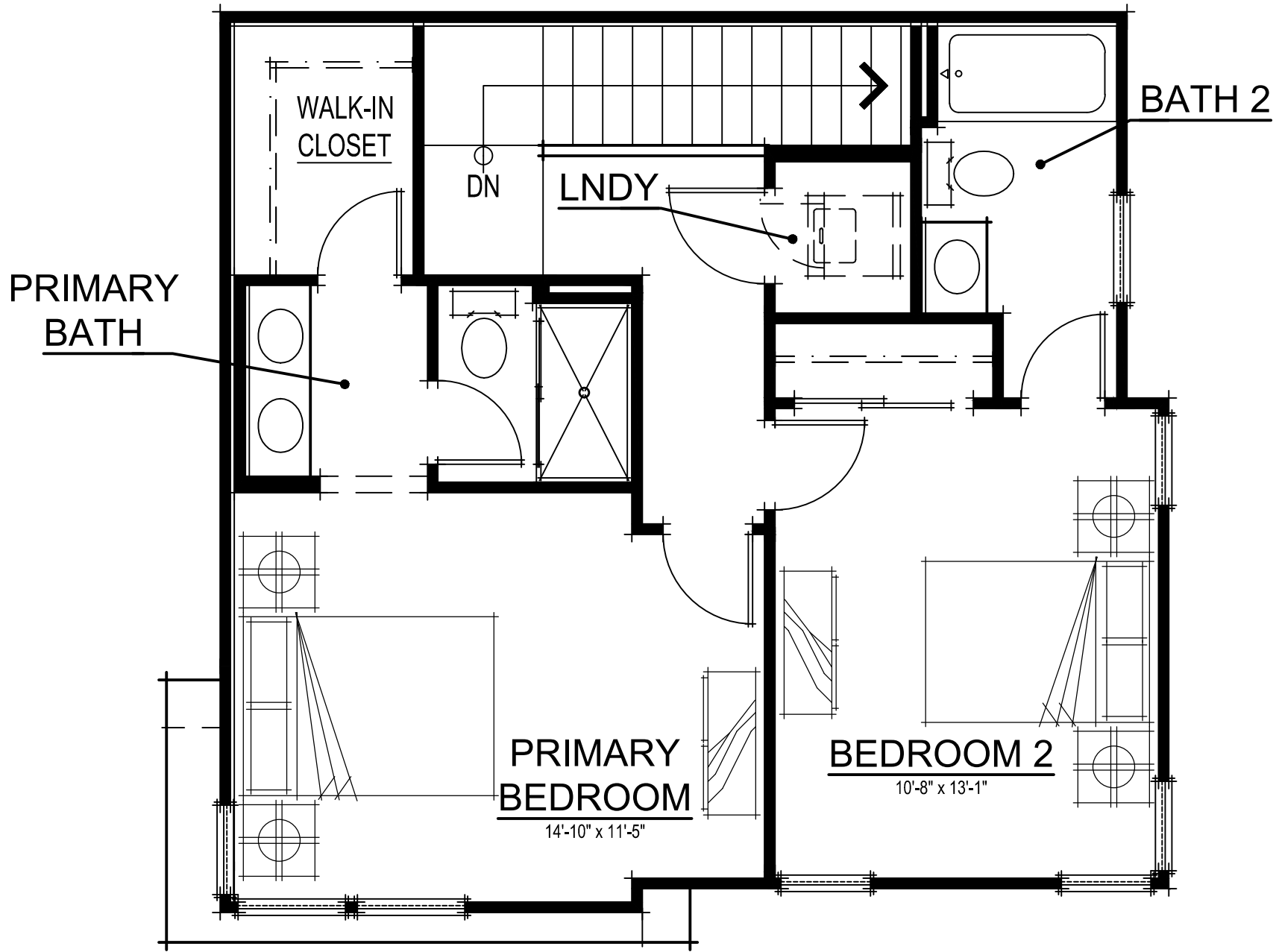
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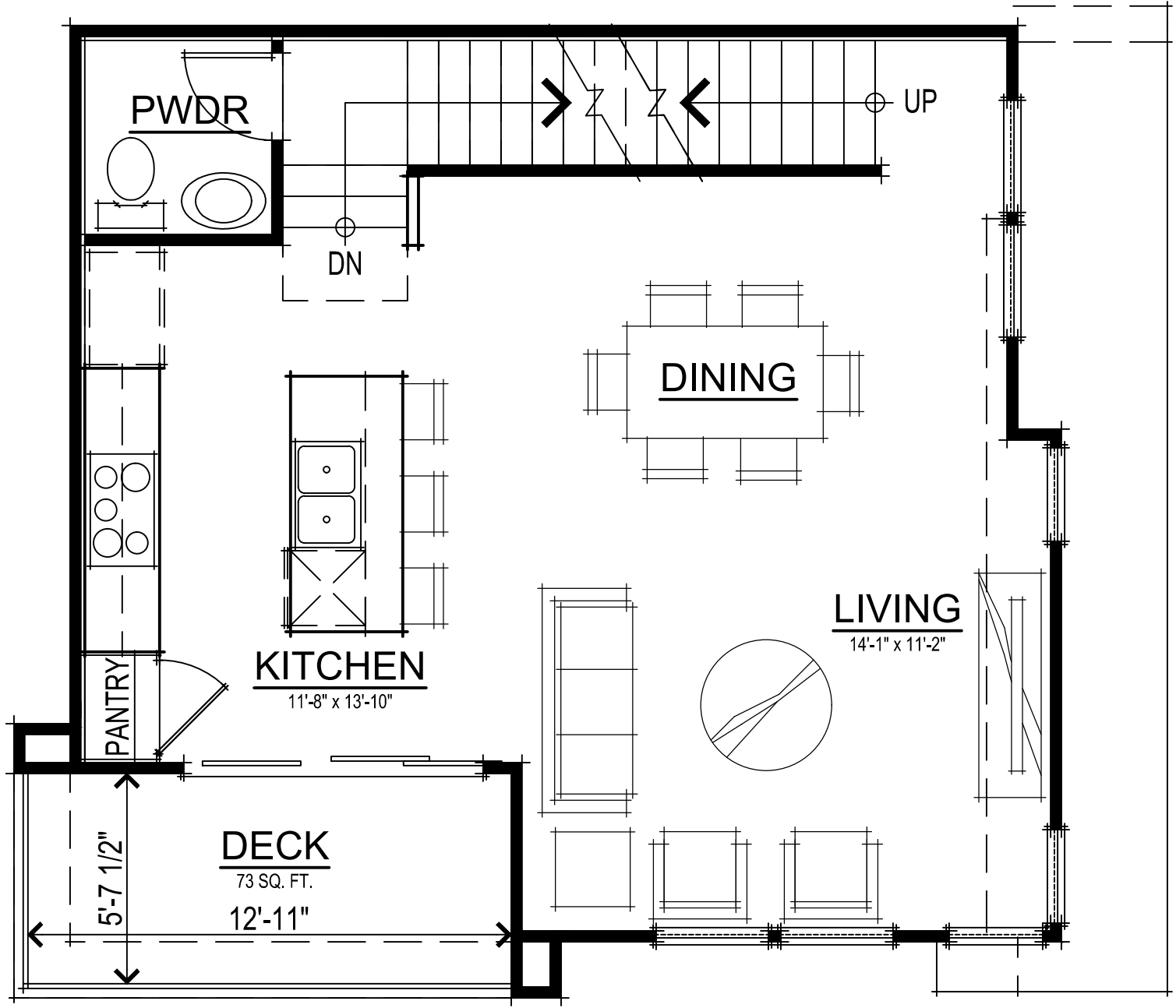
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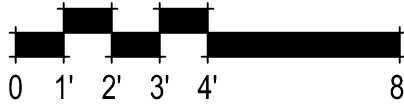


THIRD FLOOR PLAN



SECOND FLOOR PLAN

UNIT 1 SQUARE FOOTAGES	
FIRST FLOOR	42 SQ. FT.
SECOND FLOOR	584 SQ. FT.
THIRD FLOOR	630 SQ. FT.
TOTAL LIVING	1256 SQ. FT.
2-CAR GARAGE	562 SQ. FT.
PORCH	32 SQ. FT.
DECK	73 SQ. FT.



UNIT 1 FLOOR PLANS
A03

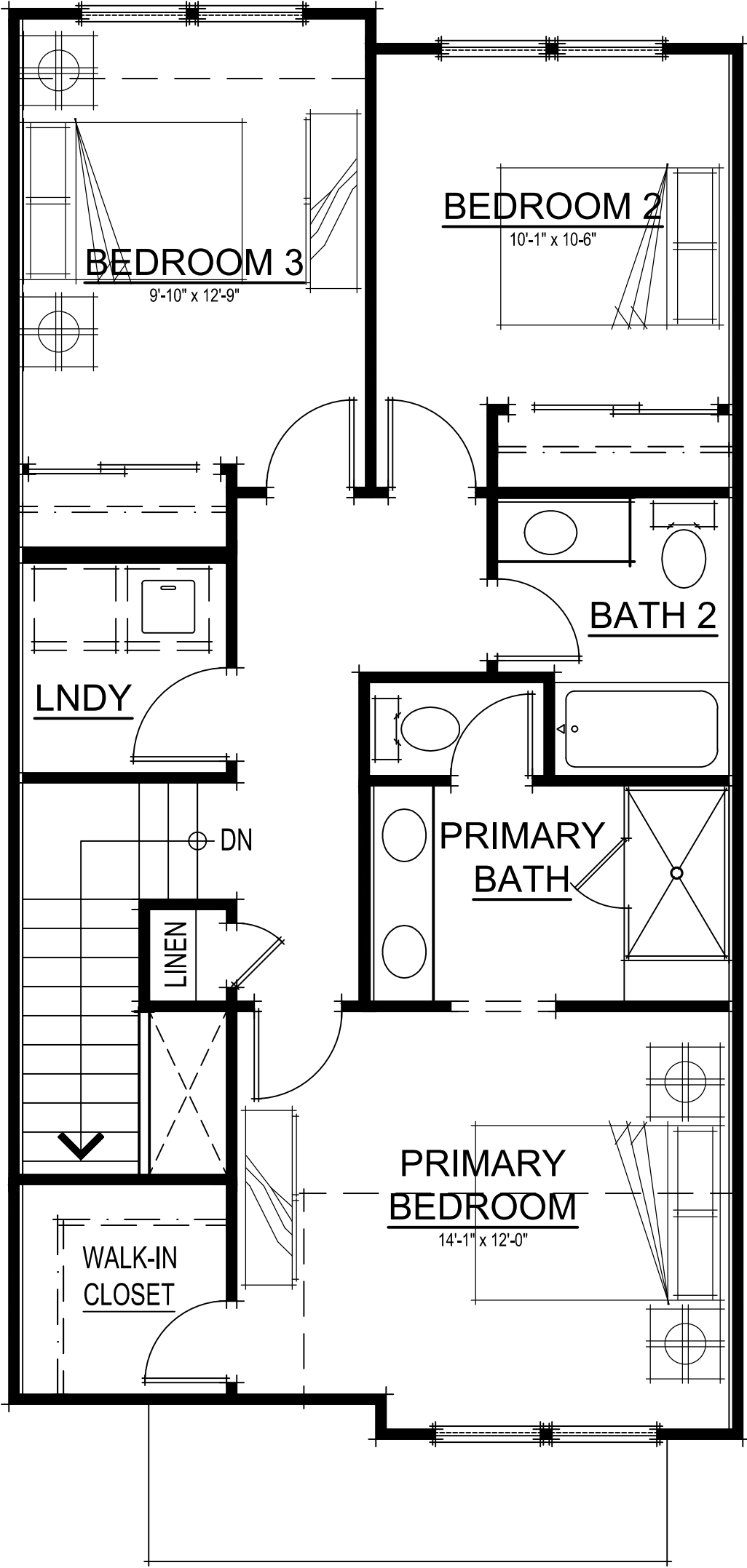
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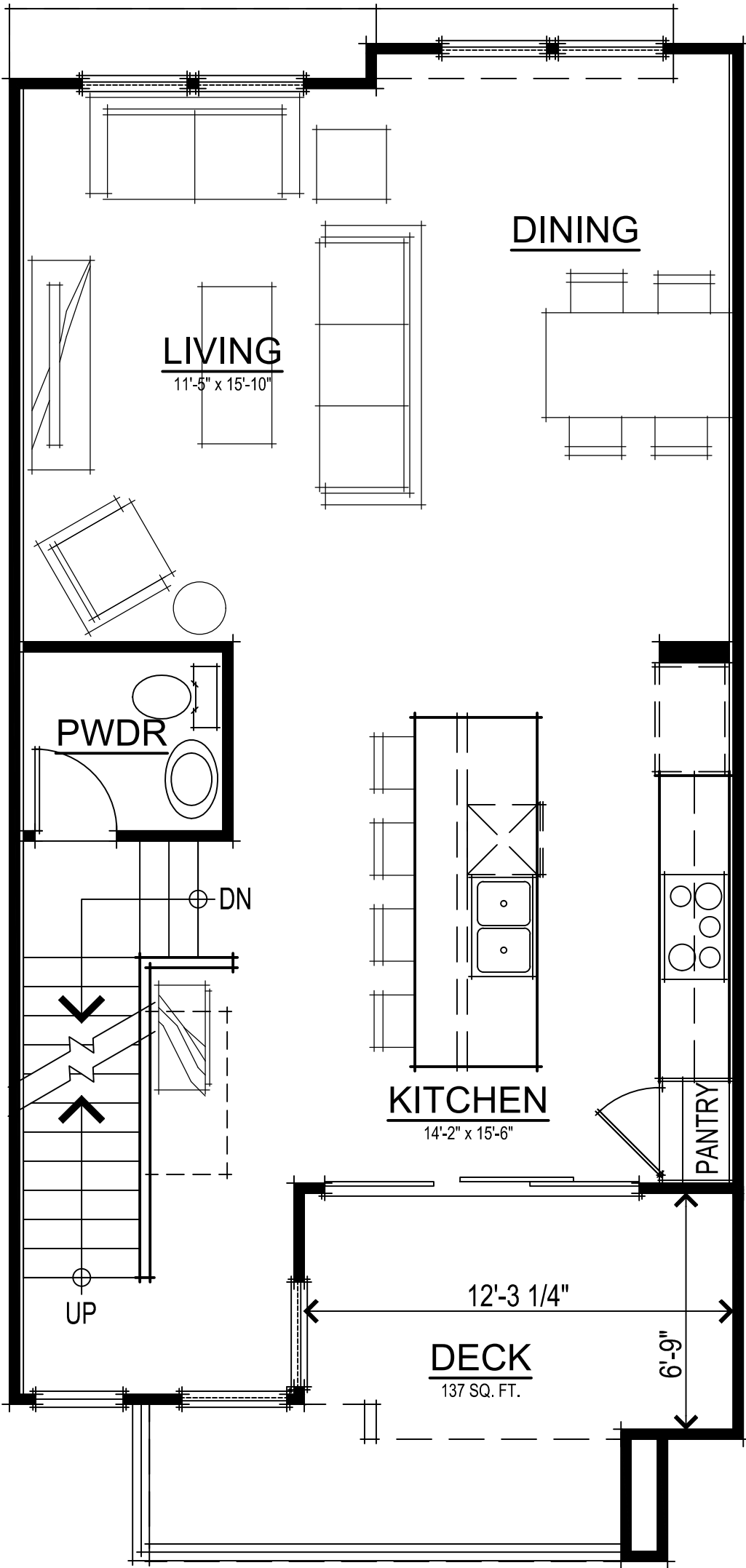
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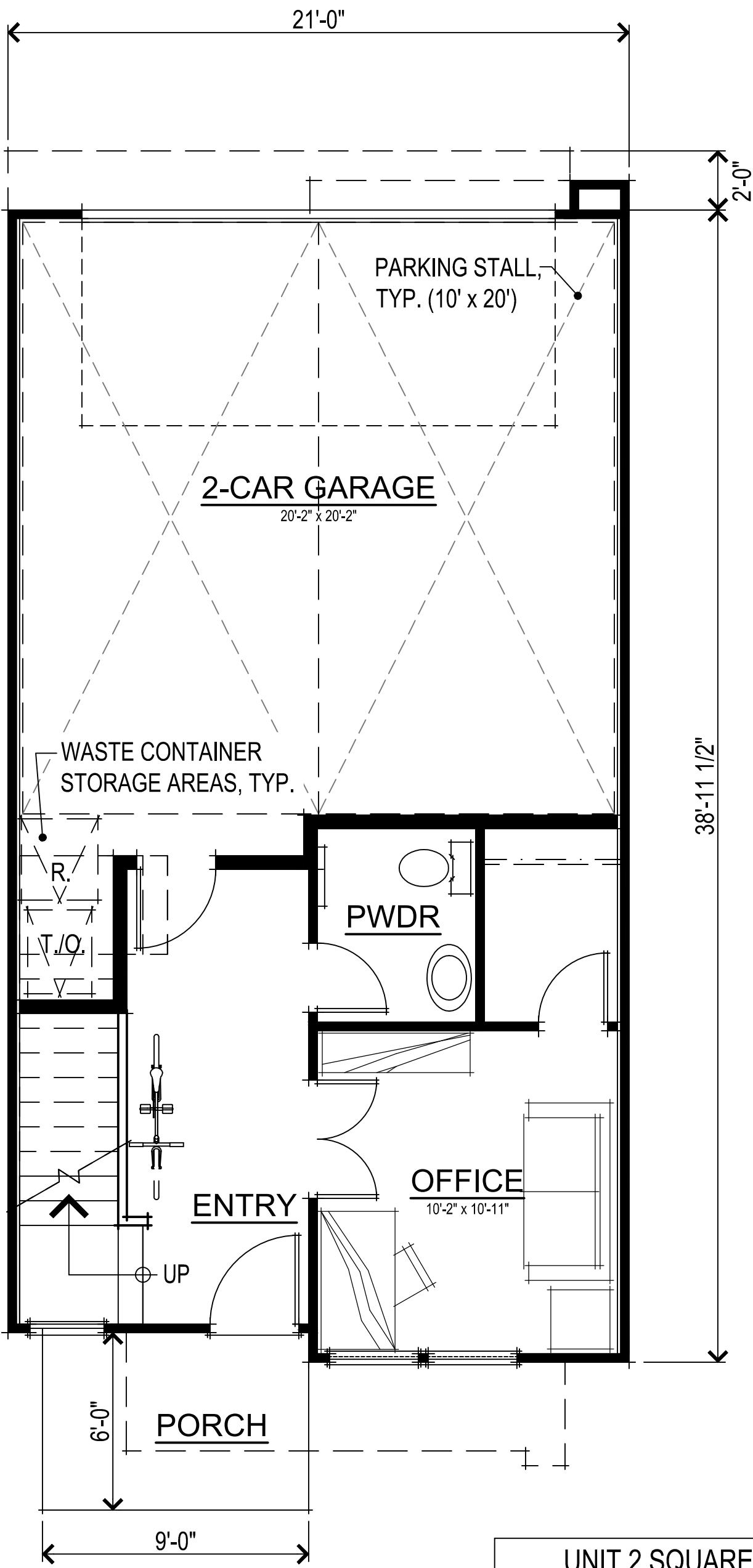




THIRD FLOOR PLAN

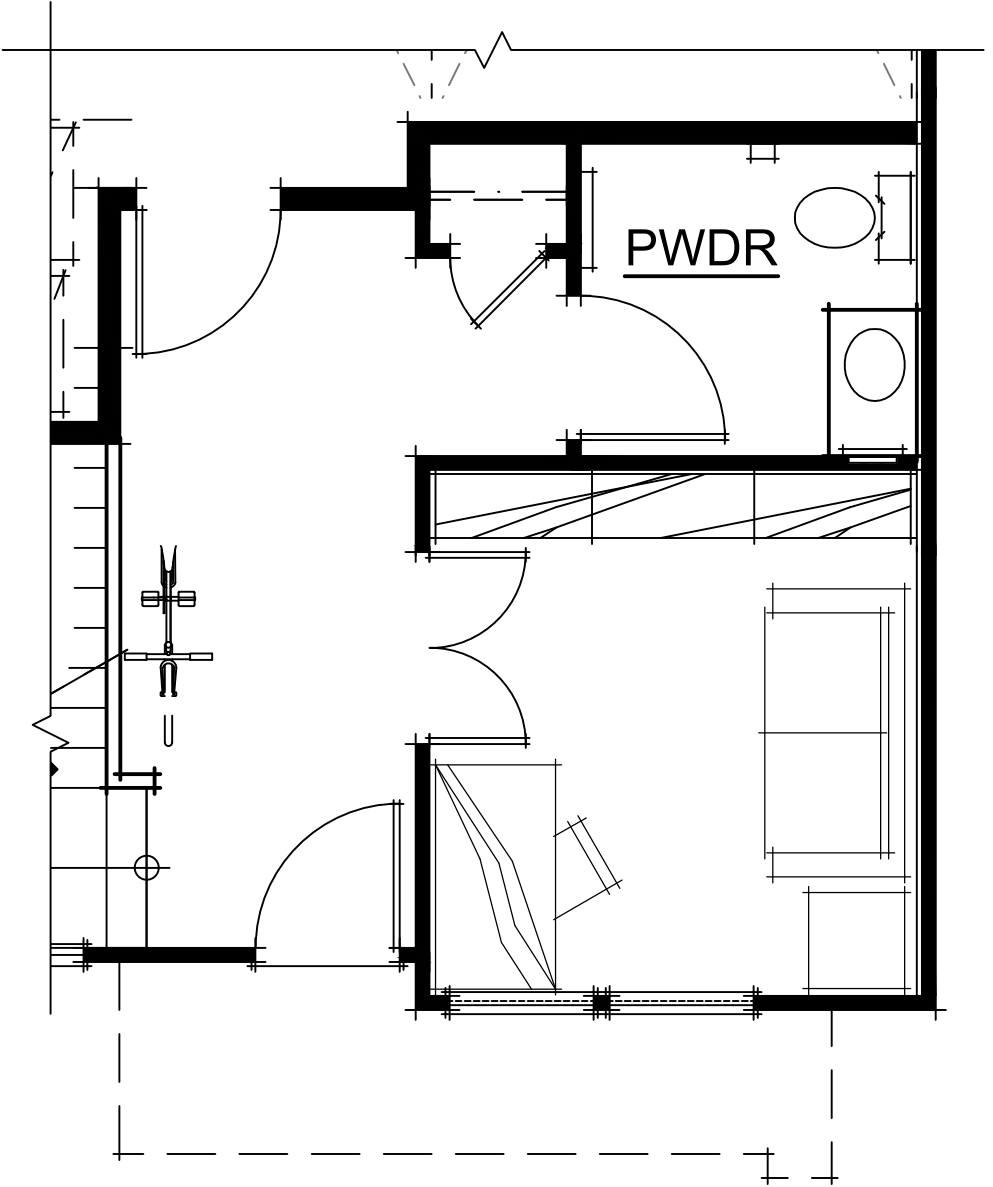


SECOND FLOOR PLAN

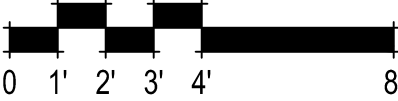


FIRST FLOOR PLAN

UNIT 2 SQUARE FOOTAGES	
FIRST FLOOR	347 SQ. FT.
SECOND FLOOR	732 SQ. FT.
THIRD FLOOR	822 SQ. FT.
TOTAL LIVING	1901 SQ. FT.
2-CAR GARAGE	461 SQ. FT.
PORCH	54 SQ. FT.
DECK	137 SQ. FT.



ADAPTABLE
POWDER



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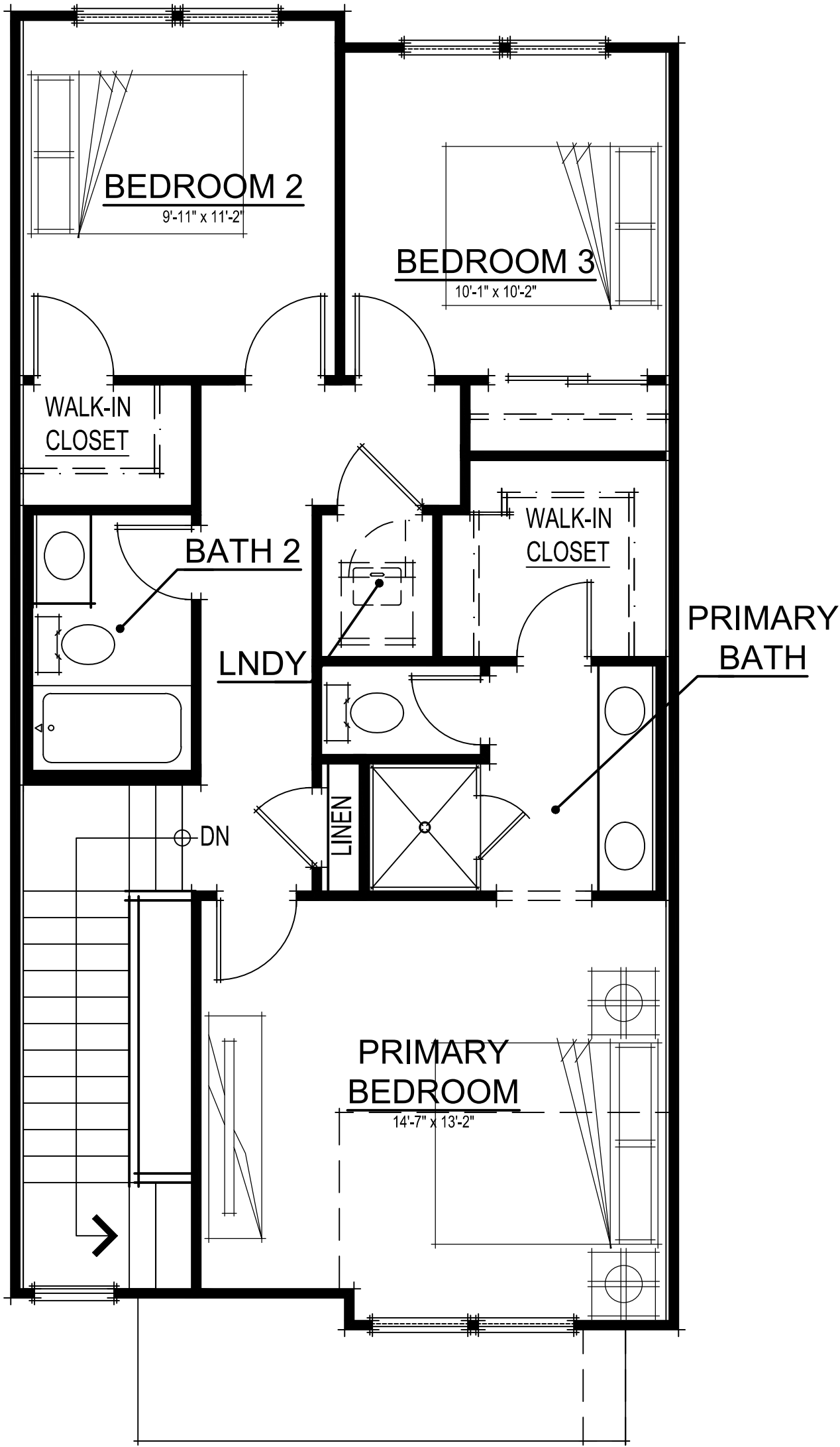
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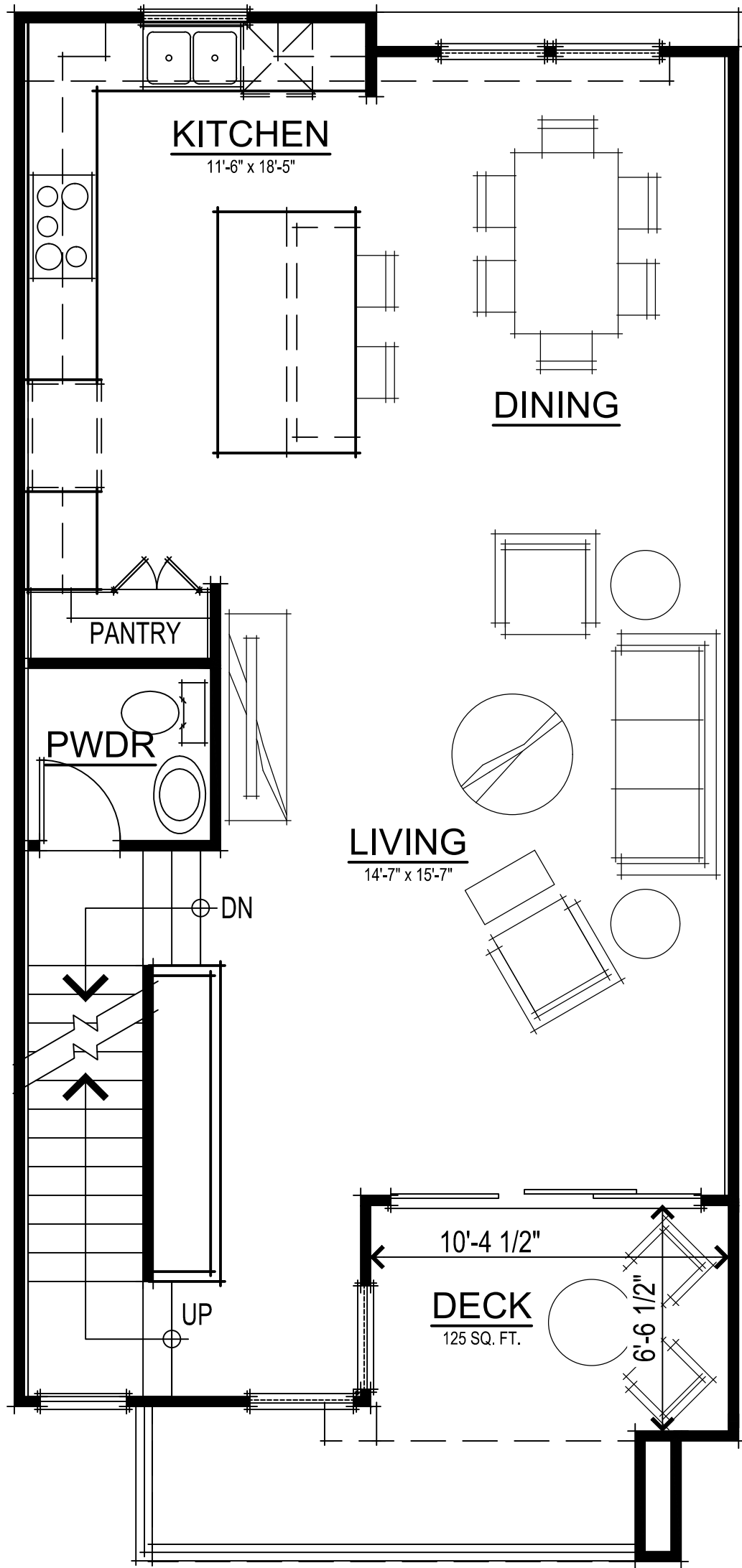
UNIT 2 FLOOR PLANS
A04

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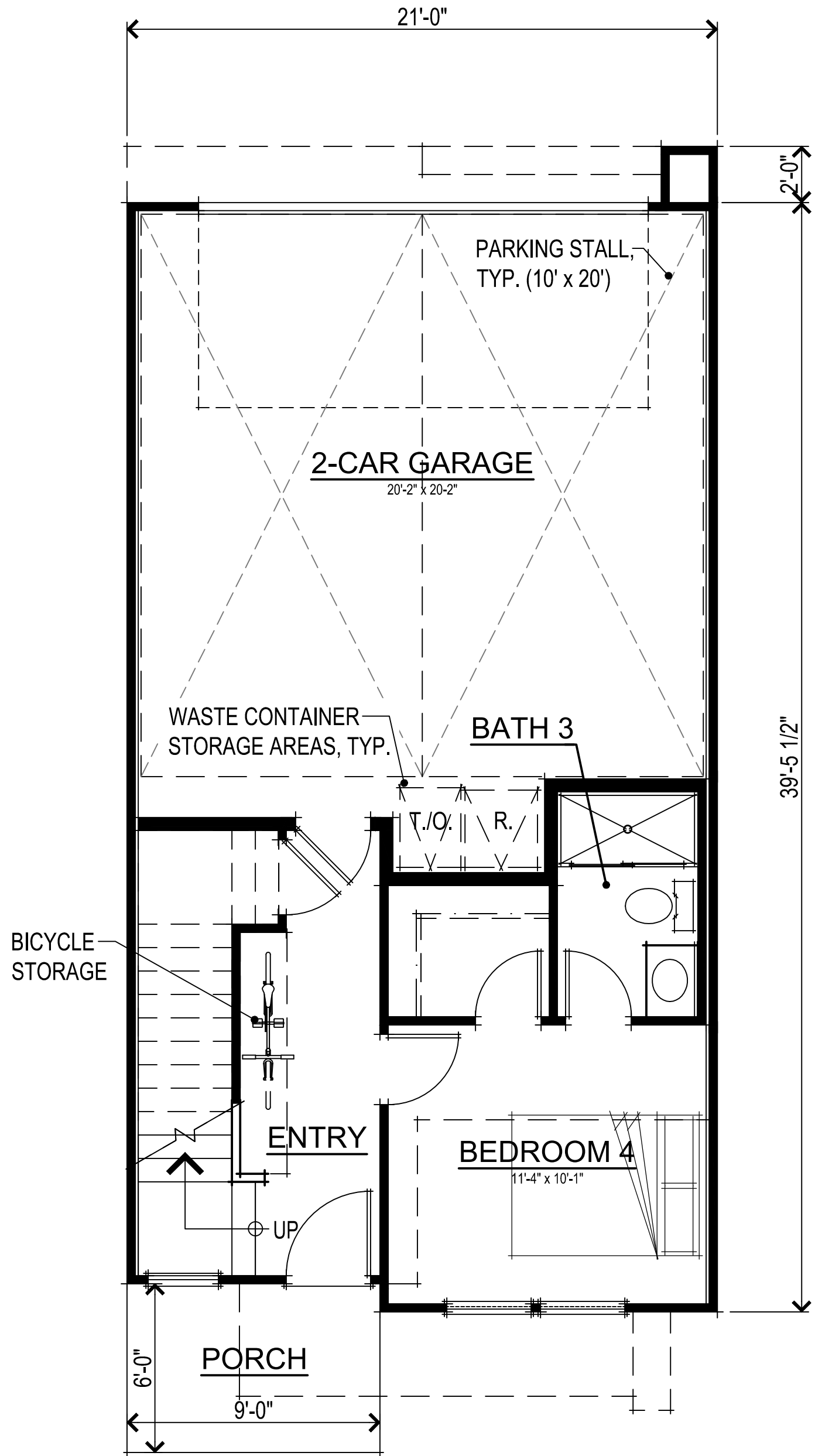




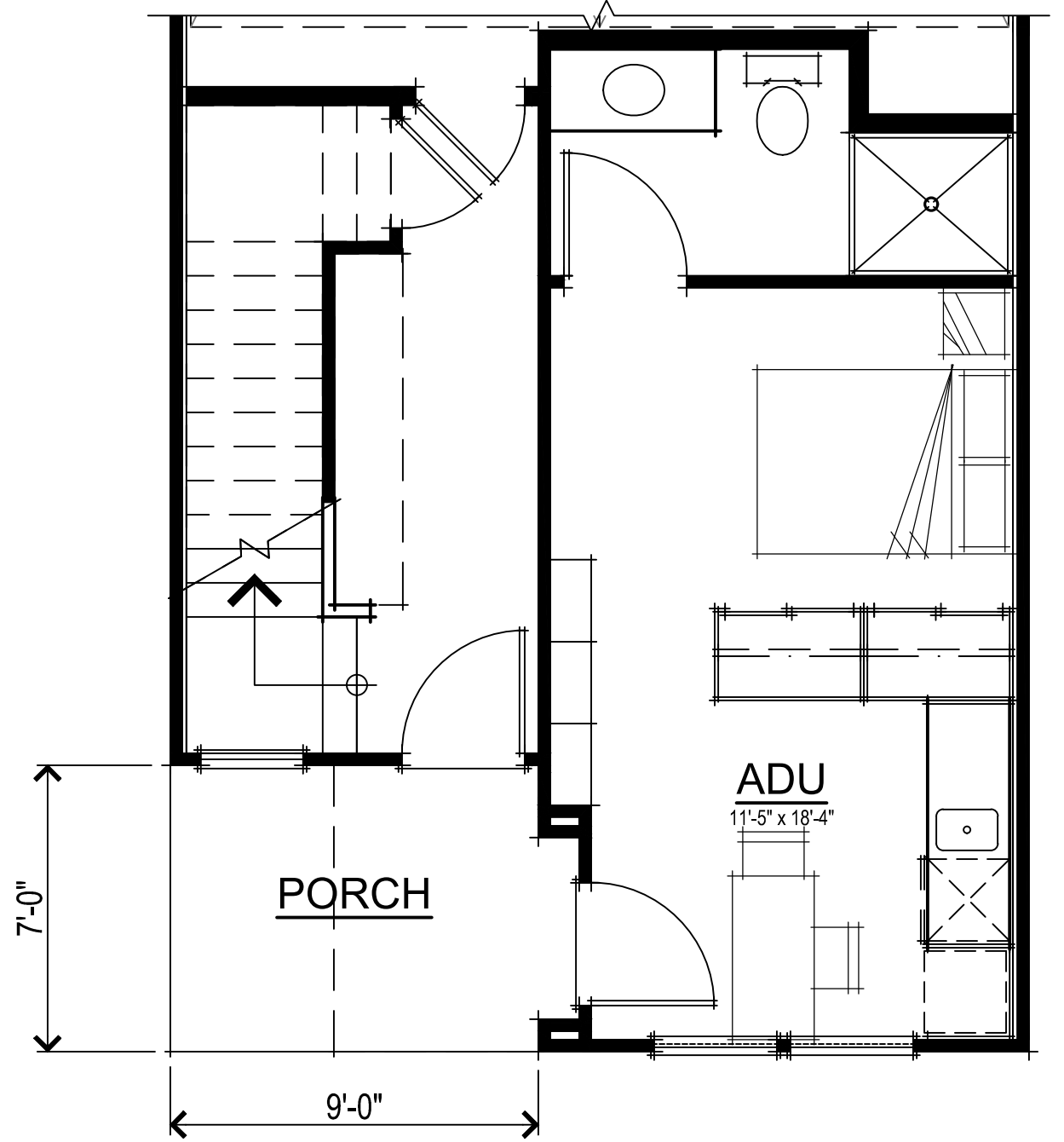
THIRD FLOOR PLAN



SECOND FLOOR PLAN

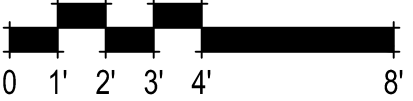


FIRST FLOOR PLAN



ADU PLAN @ FIRST FLOOR
(ADAPTABLE PER CBC 1104A.1)

UNIT 3 ADU SQUARE FOOTAGES		UNIT 3 SQUARE FOOTAGES	
FIRST FLOOR ADU	287 SQ. FT.	FIRST FLOOR	358 SQ. FT.
FIRST FLOOR PRIMARY	149 SQ. FT.	SECOND FLOOR	763 SQ. FT.
UNIT		THIRD FLOOR	784 SQ. FT.
SECOND FLOOR	763 SQ. FT.	TOTAL LIVING	1905 SQ. FT.
THIRD FLOOR	784 SQ. FT.	2-CAR GARAGE	461 SQ. FT.
TOTAL LIVING	1983 SQ. FT.	PORCH	54 SQ. FT.
2-CAR GARAGE	451 SQ. FT.	DECK	125 SQ. FT.
PORCH	67 SQ. FT.		
DECK	177 SQ. FT.		



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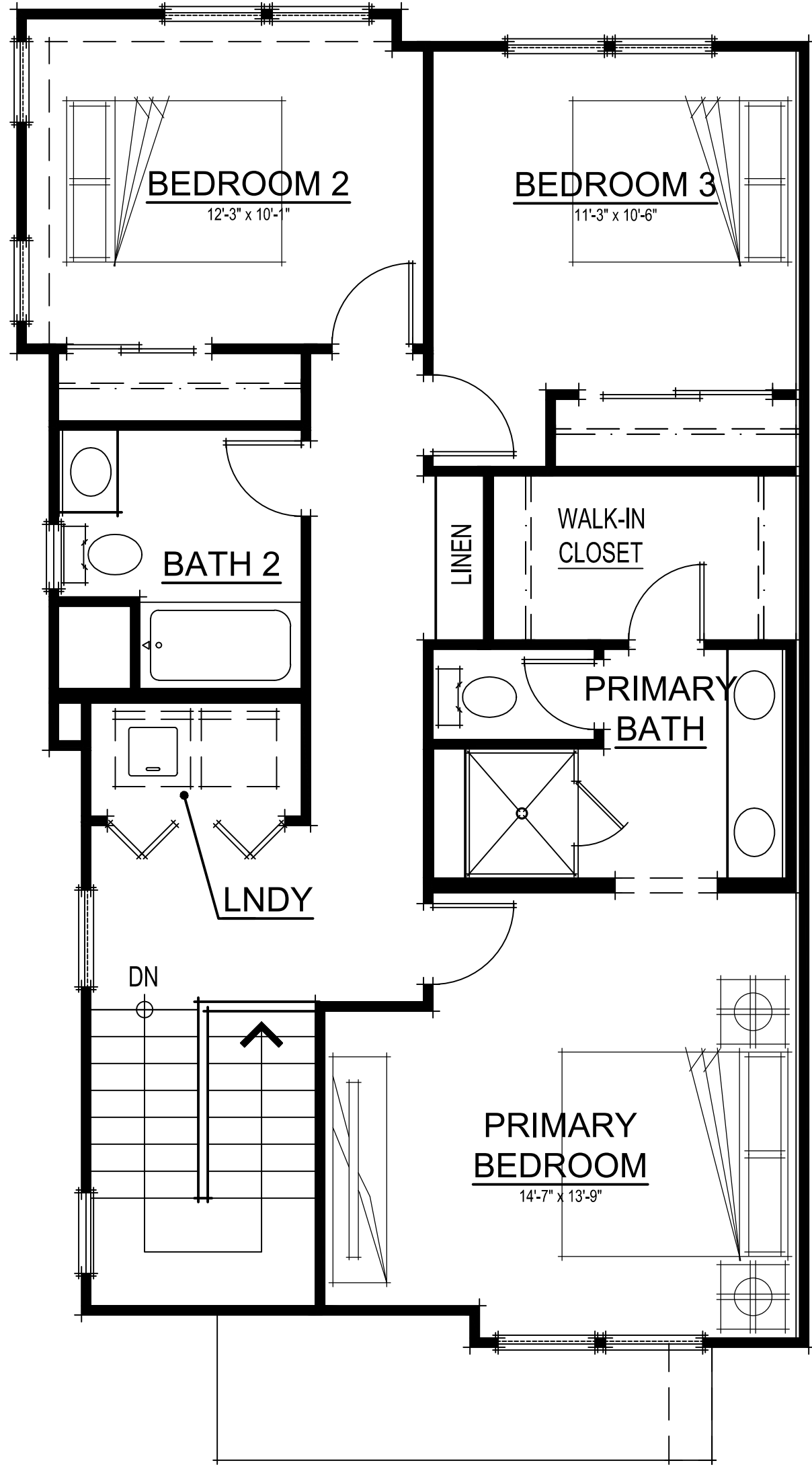
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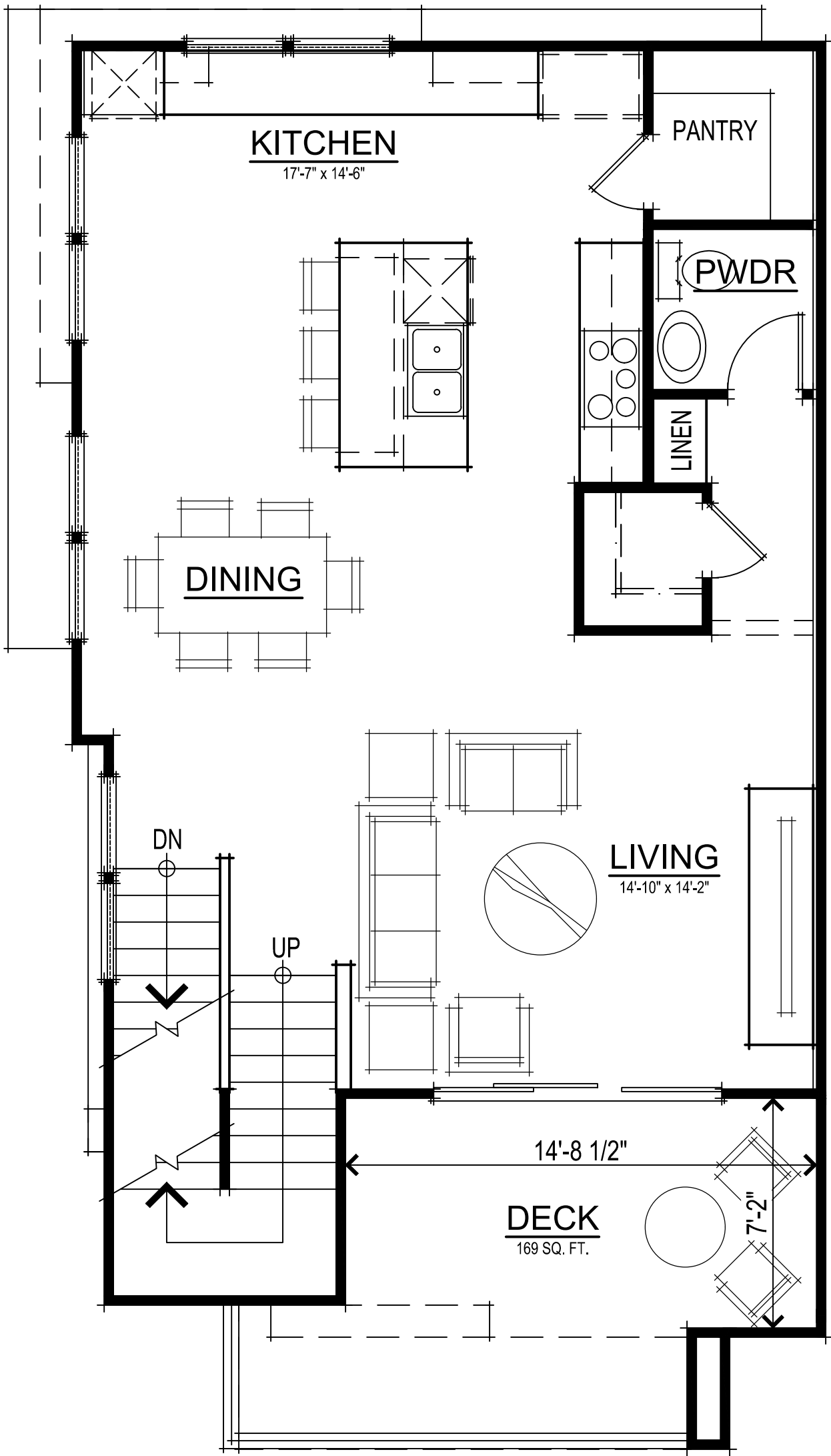
UNIT 3 FLOOR PLANS
A05

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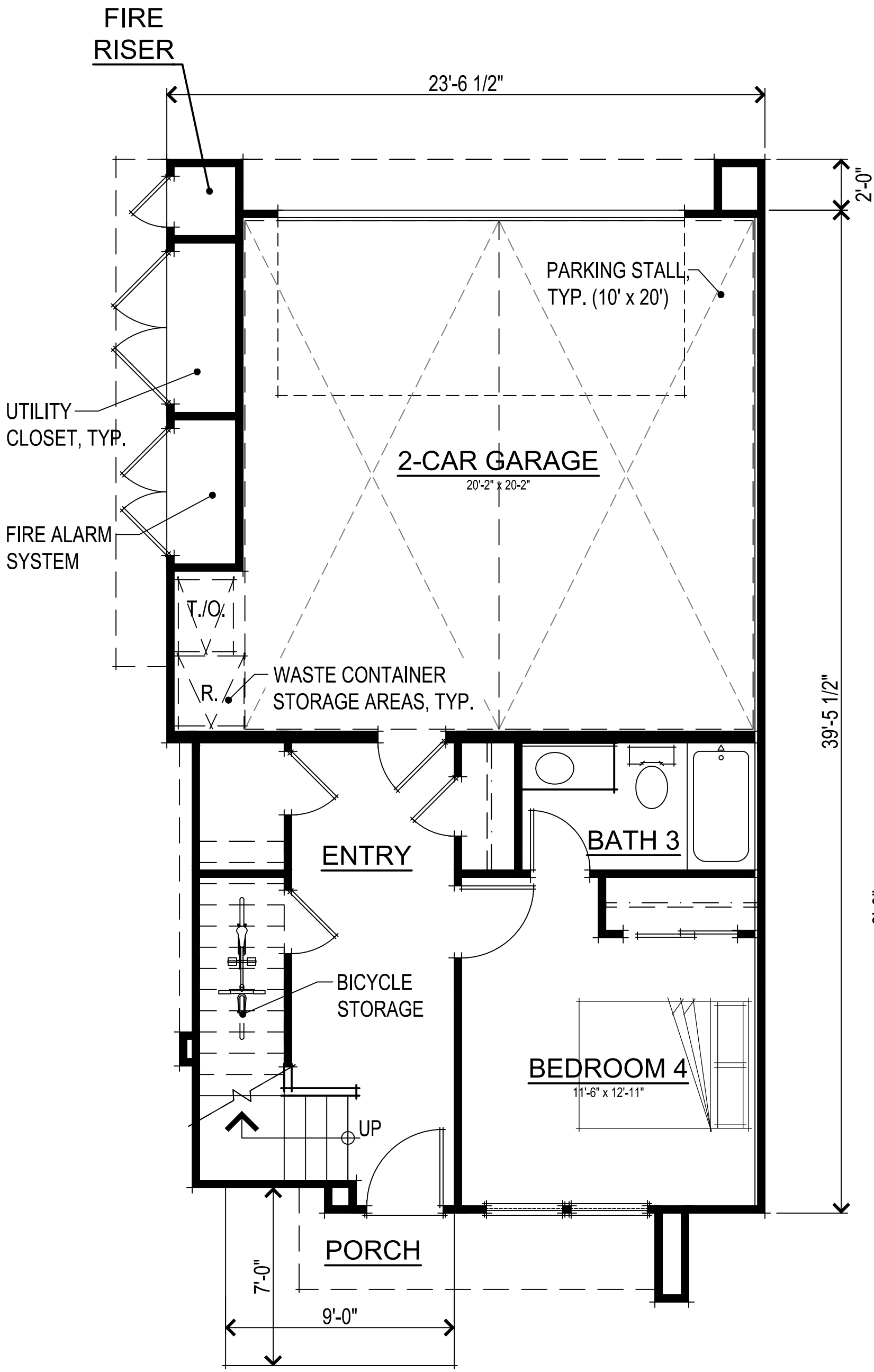




THIRD FLOOR PLAN

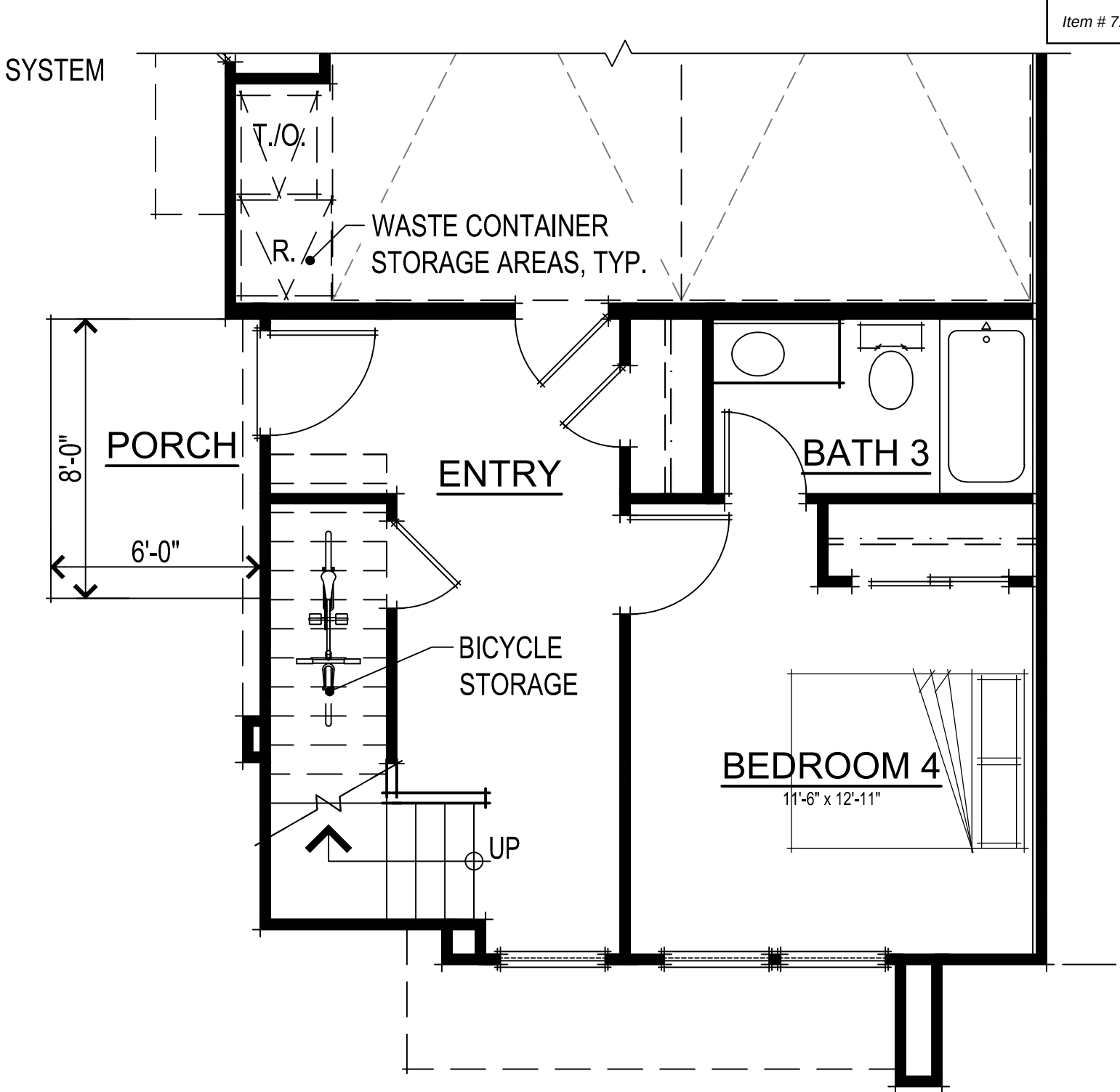


SECOND FLOOR PLAN

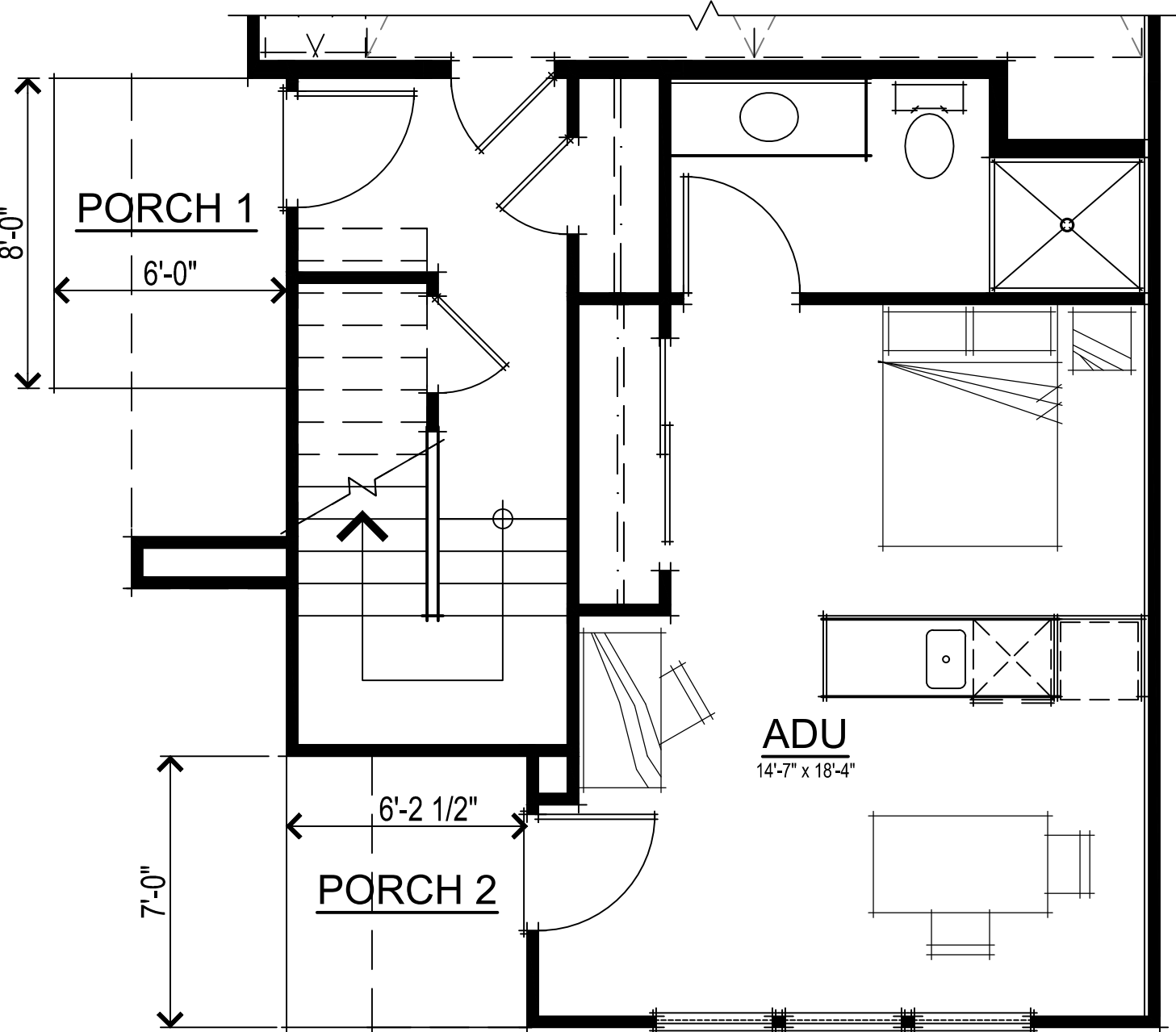


FIRST FLOOR PLAN

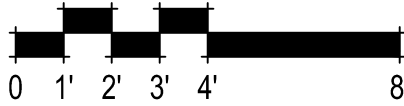
UNIT 4 SQUARE FOOTAGES		UNIT 4-ADU SQUARE FOOTAGES	
FIRST FLOOR	421 SQ. FT.	FIRST FLOOR ADU	362 SQ. FT.
SECOND FLOOR	815 SQ. FT.	FIRST FLOOR PRIMARY	148 SQ. FT.
THIRD FLOOR	877 SQ. FT.	UNIT	
TOTAL LIVING	2113 SQ. FT.	SECOND FLOOR	815 SQ. FT.
2-CAR GARAGE	445 SQ. FT.	THIRD FLOOR	877 SQ. FT.
PORCH	58 SQ. FT.	TOTAL LIVING	2202 SQ. FT.
DECK	169 SQ. FT.	2-CAR GARAGE	454 SQ. FT.
		PORCH 1	48 SQ. FT.
		PORCH 2	43 SQ. FT.
		DECK	239 SQ. FT.



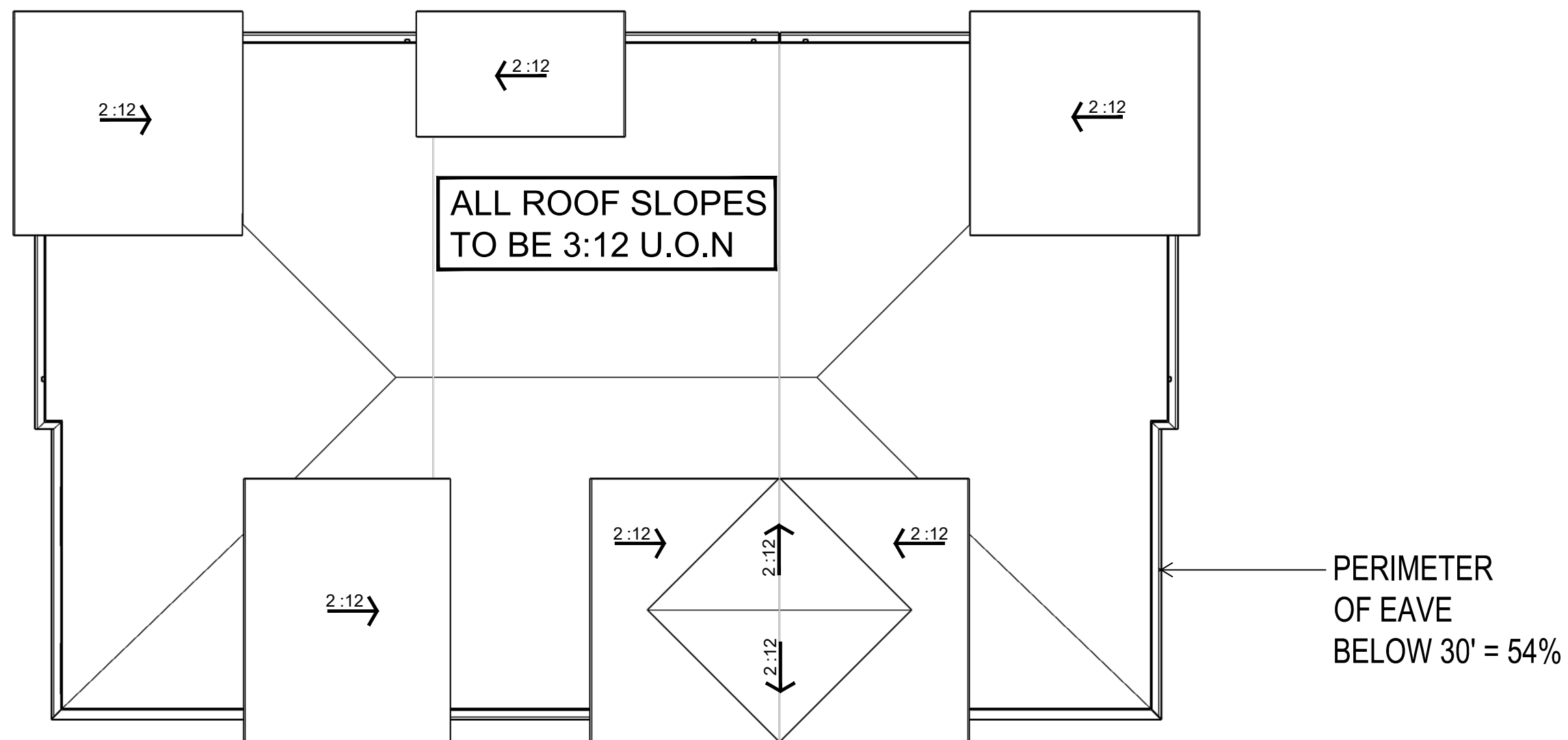
ALTERNATE ENTRY @ FIRST FLOOR



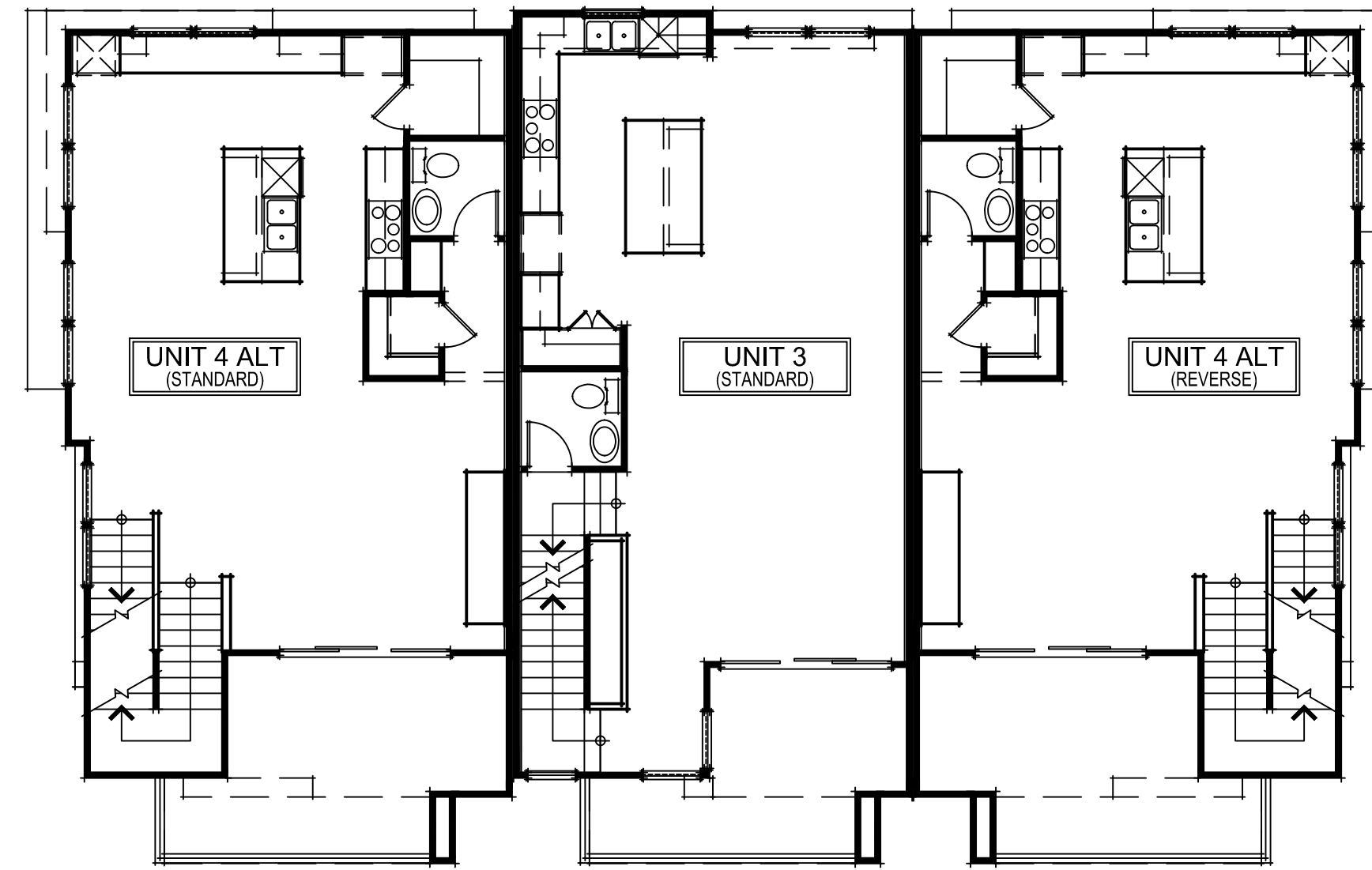
ADU PLAN @ FIRST FLOOR
(ADAPTABLE PER CBC 1104A.1)



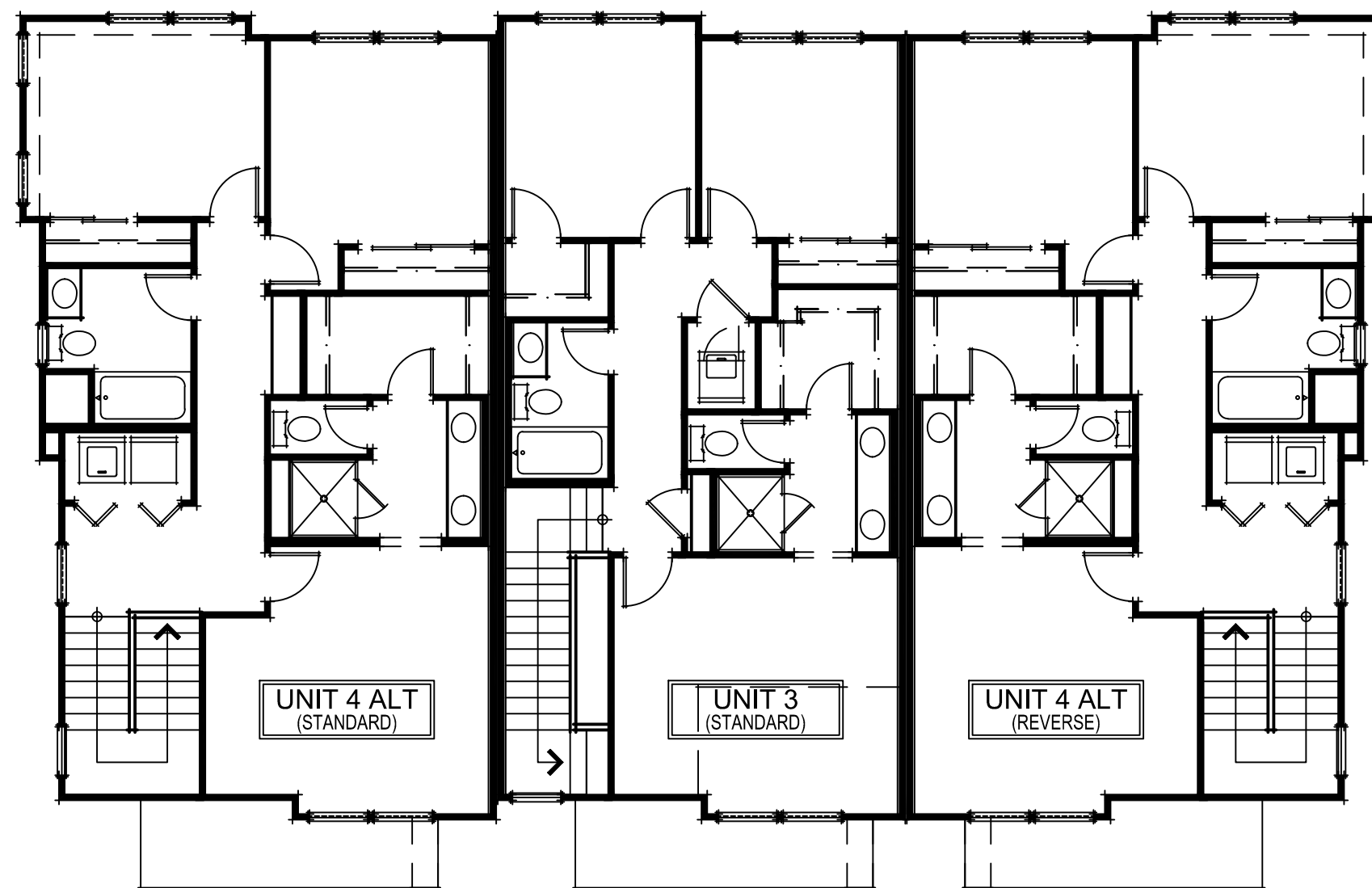
UNIT 4 FLOOR PLANS
A06



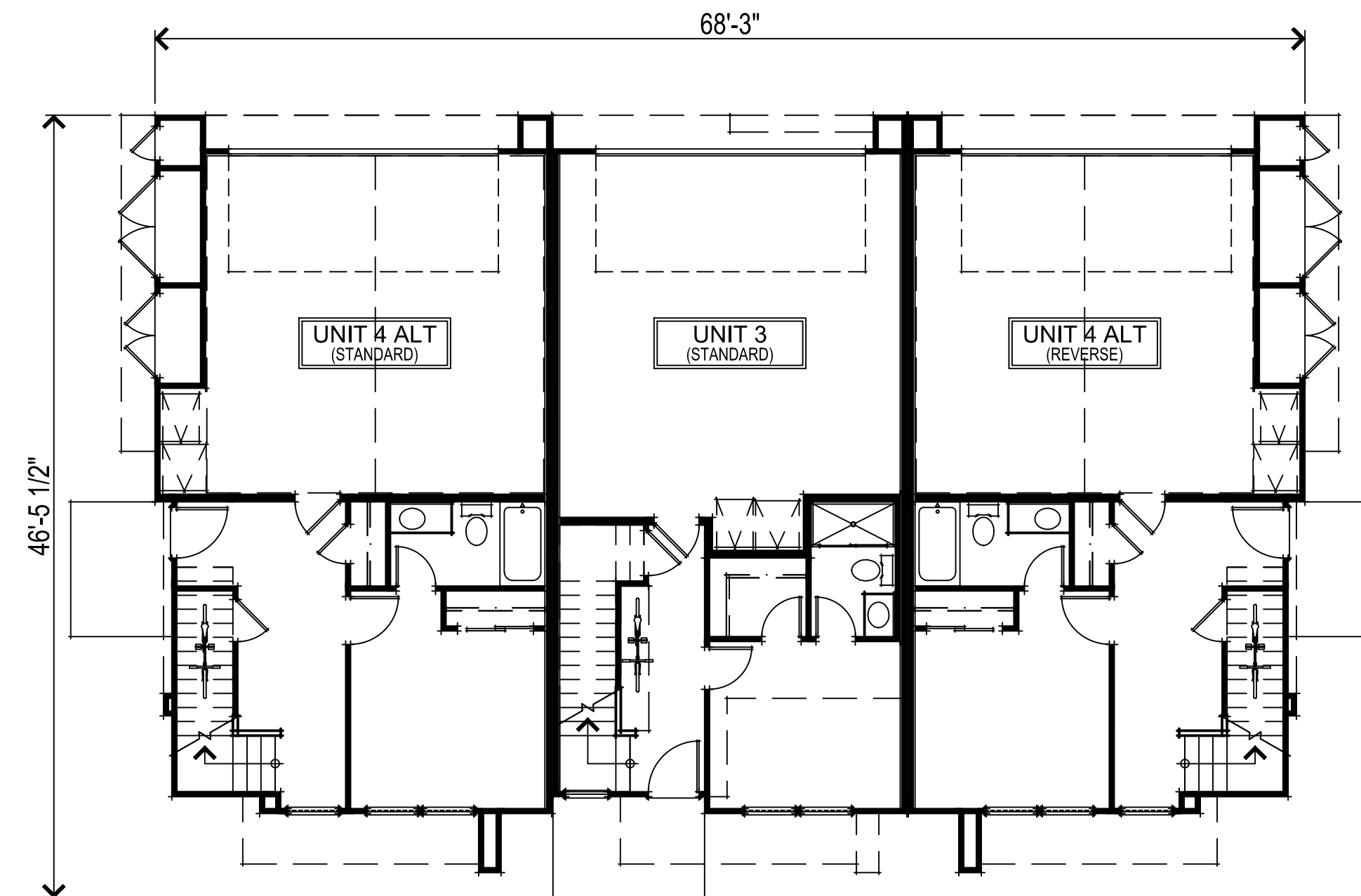
ROOF PLAN



SECOND FLOOR PLAN



THIRD FLOOR PLAN



FIRST FLOOR PLAN





REAR ELEVATION



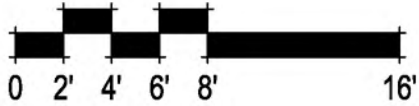
RIGHT ELEVATION

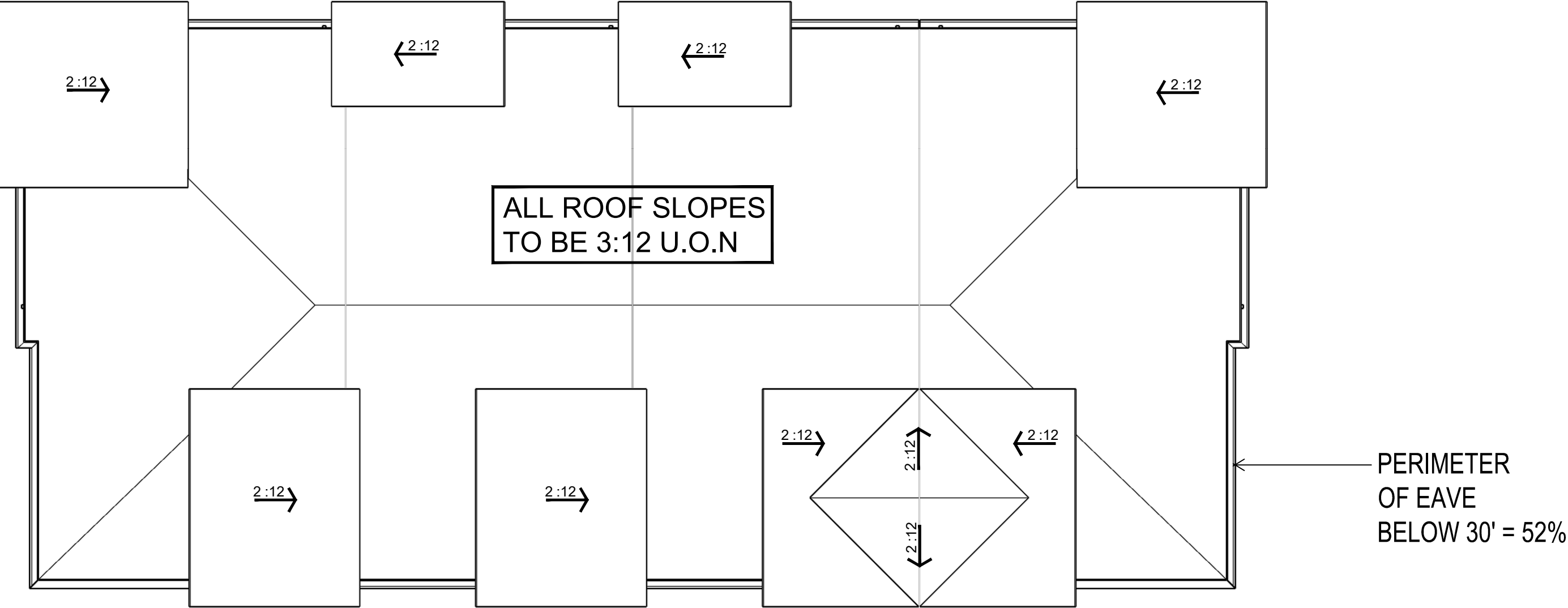


LEFT ELEVATION



FRONT ELEVATION

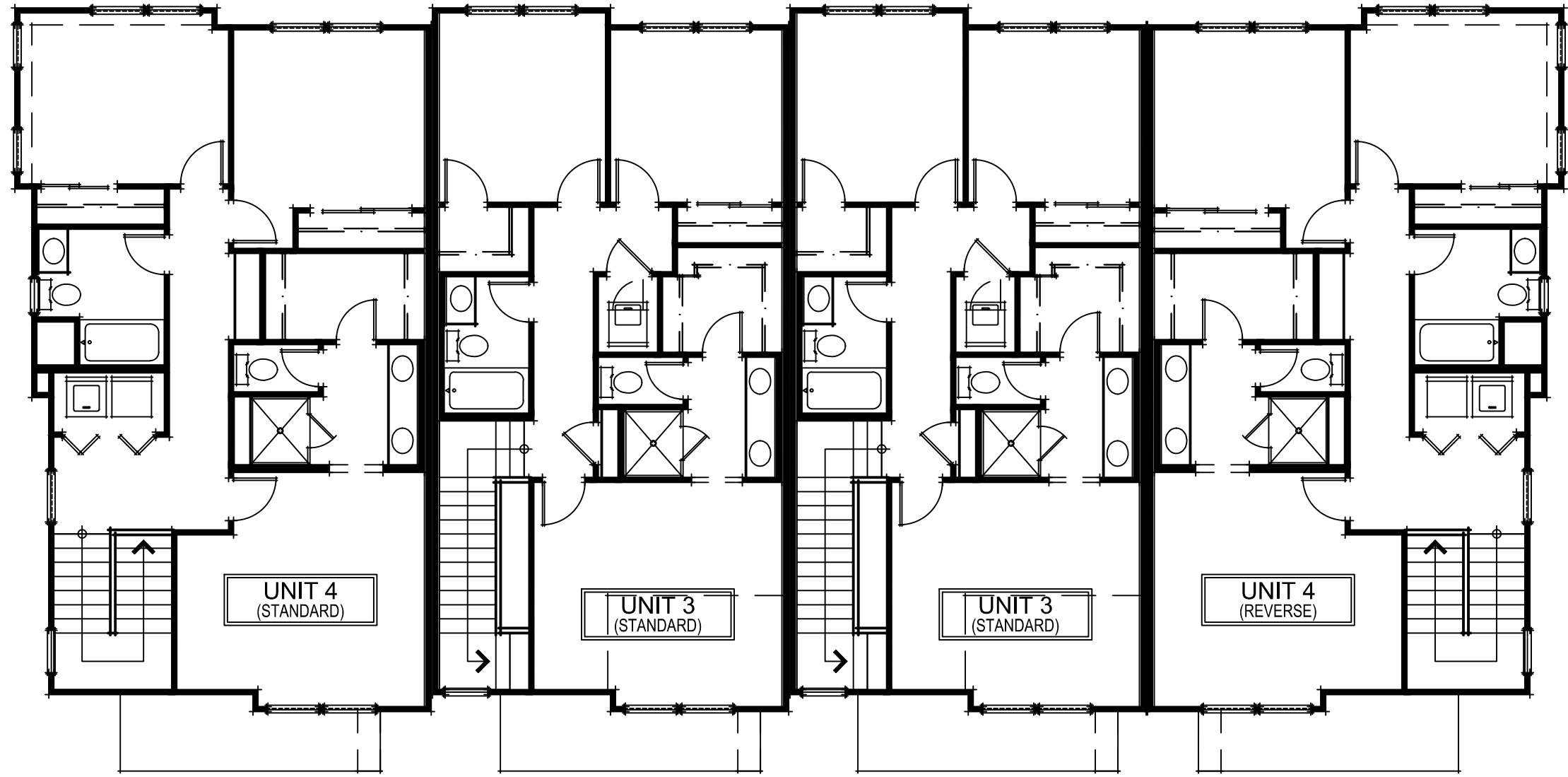




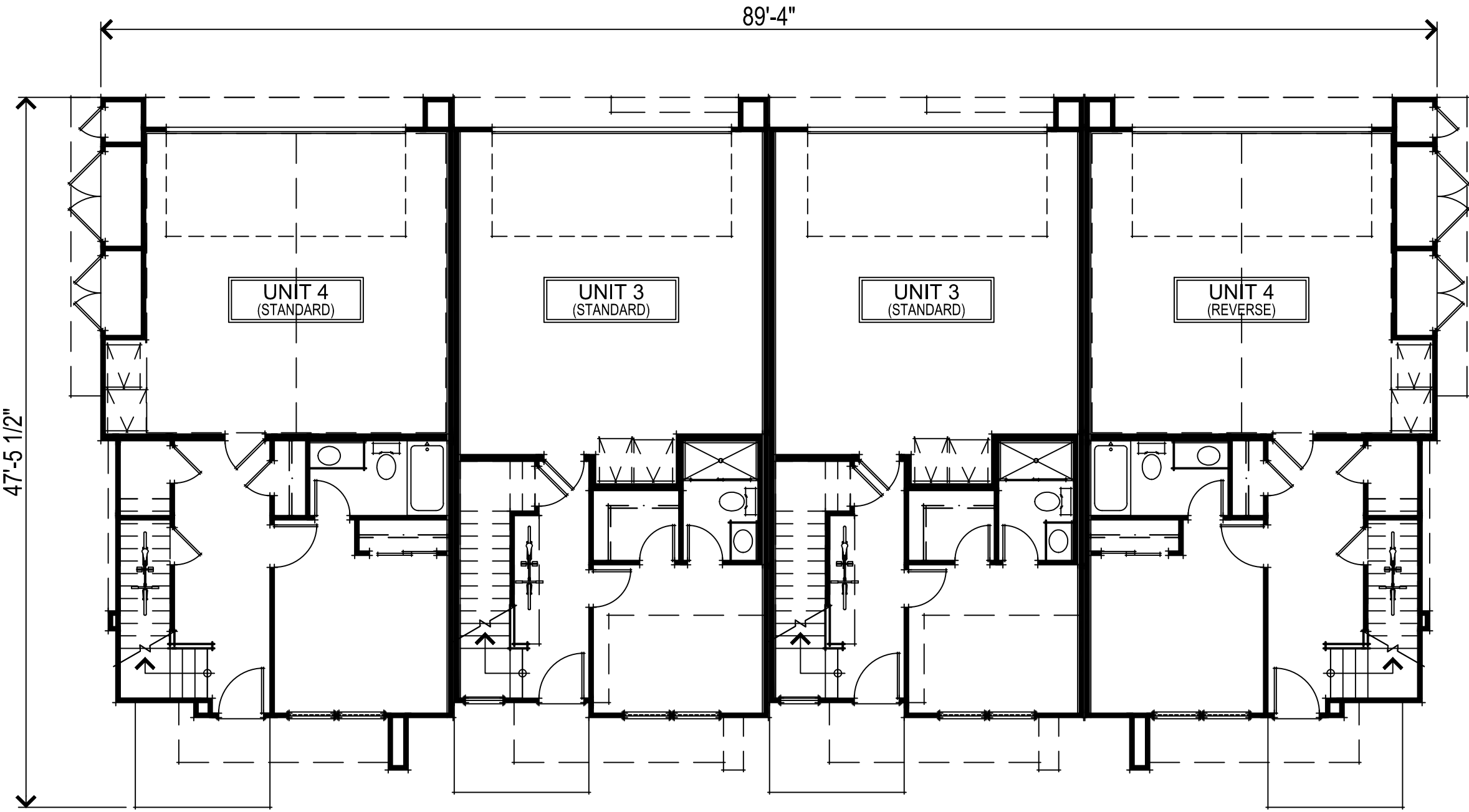
ROOF PLAN



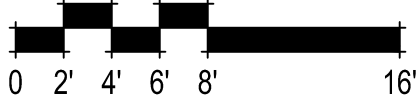
SECOND FLOOR PLAN



THIRD FLOOR PLAN



FIRST FLOOR PLAN



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4-UNIT BUILDING FLOOR & ROOF PLANS
BUILDINGS 9 & 13
A09

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REAR ELEVATION



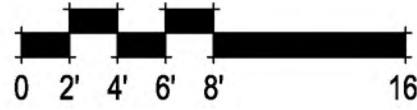
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



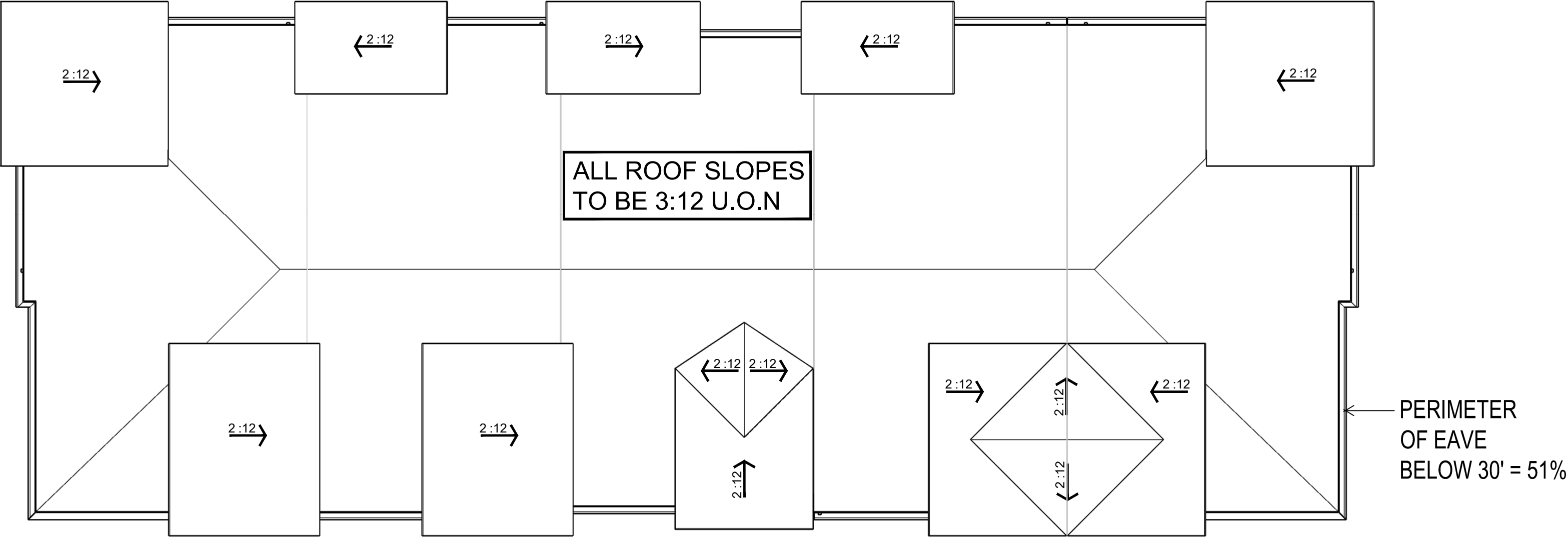
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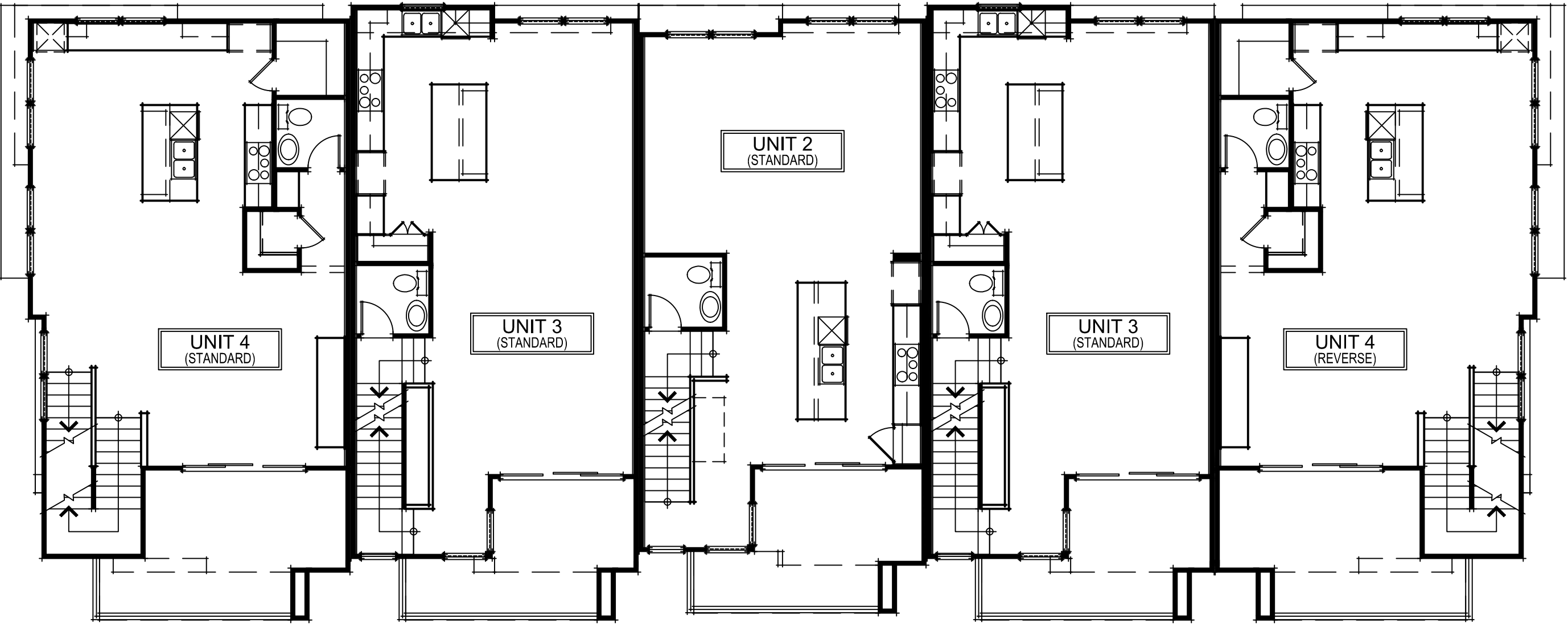
4-UNIT BUILDING EXTERIOR ELEVATIONS
BUILDINGS 9 & 13
A10

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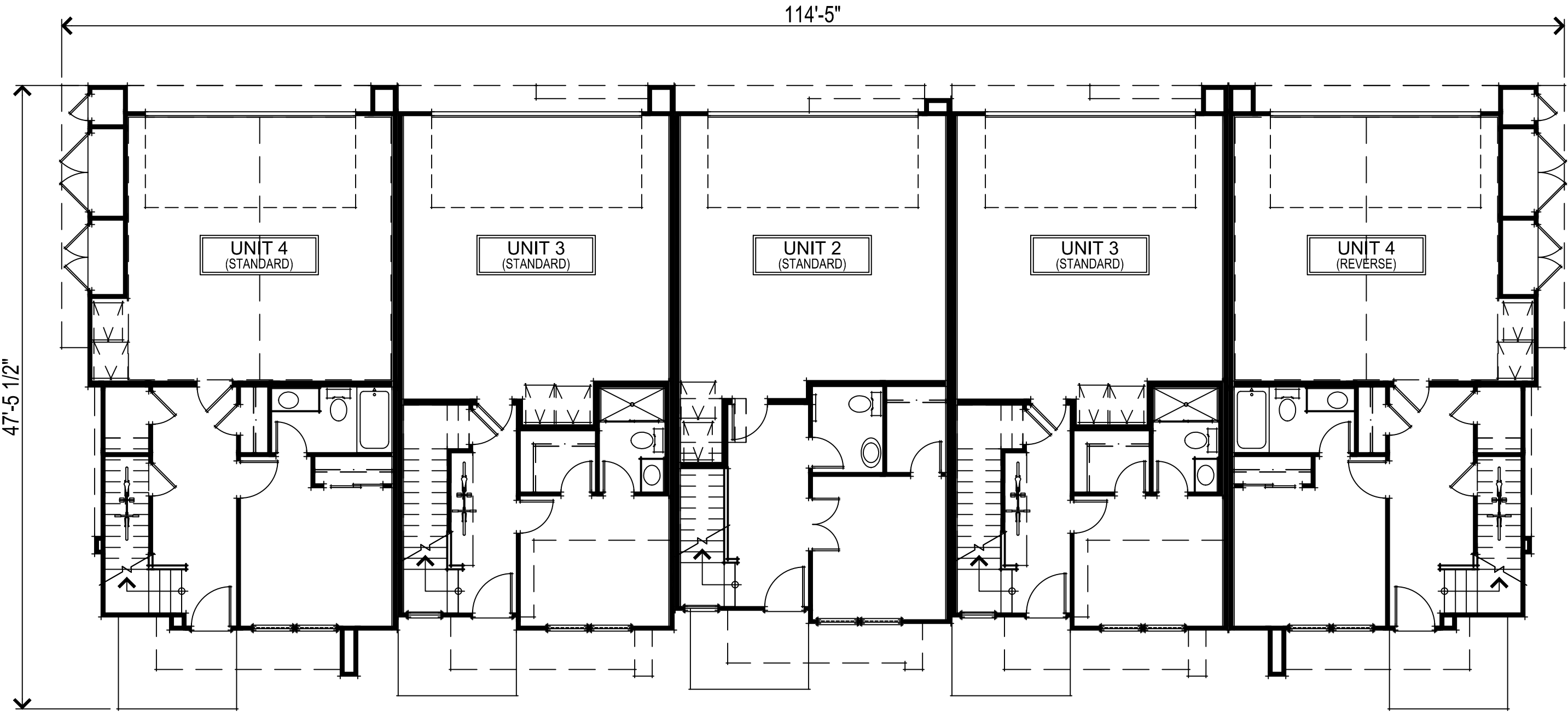
ROOF PLAN



SECOND FLOOR PLAN



THIRD FLOOR PLAN



FIRST FLOOR PLAN



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5-UNIT BUILDING 'A' FLOOR & ROOF PLANS
BUILDING 12
A11

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REAR ELEVATION



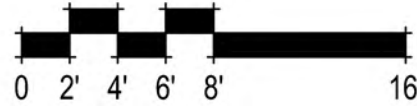
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



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October 7, 2022

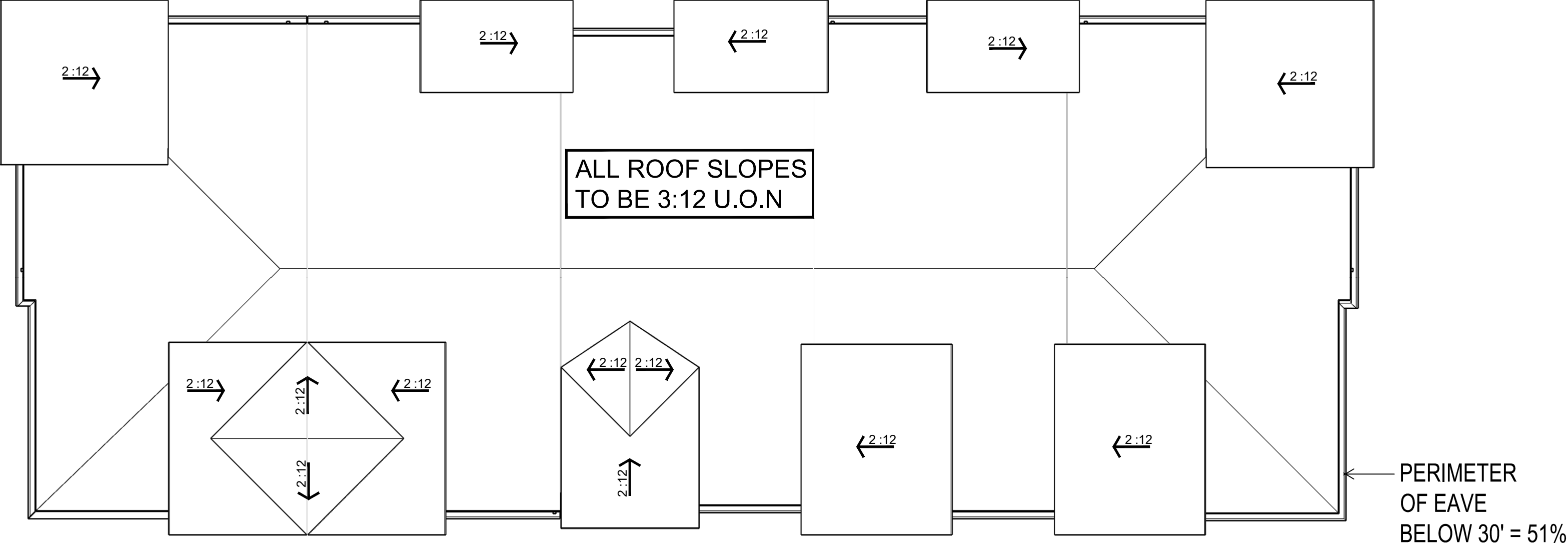
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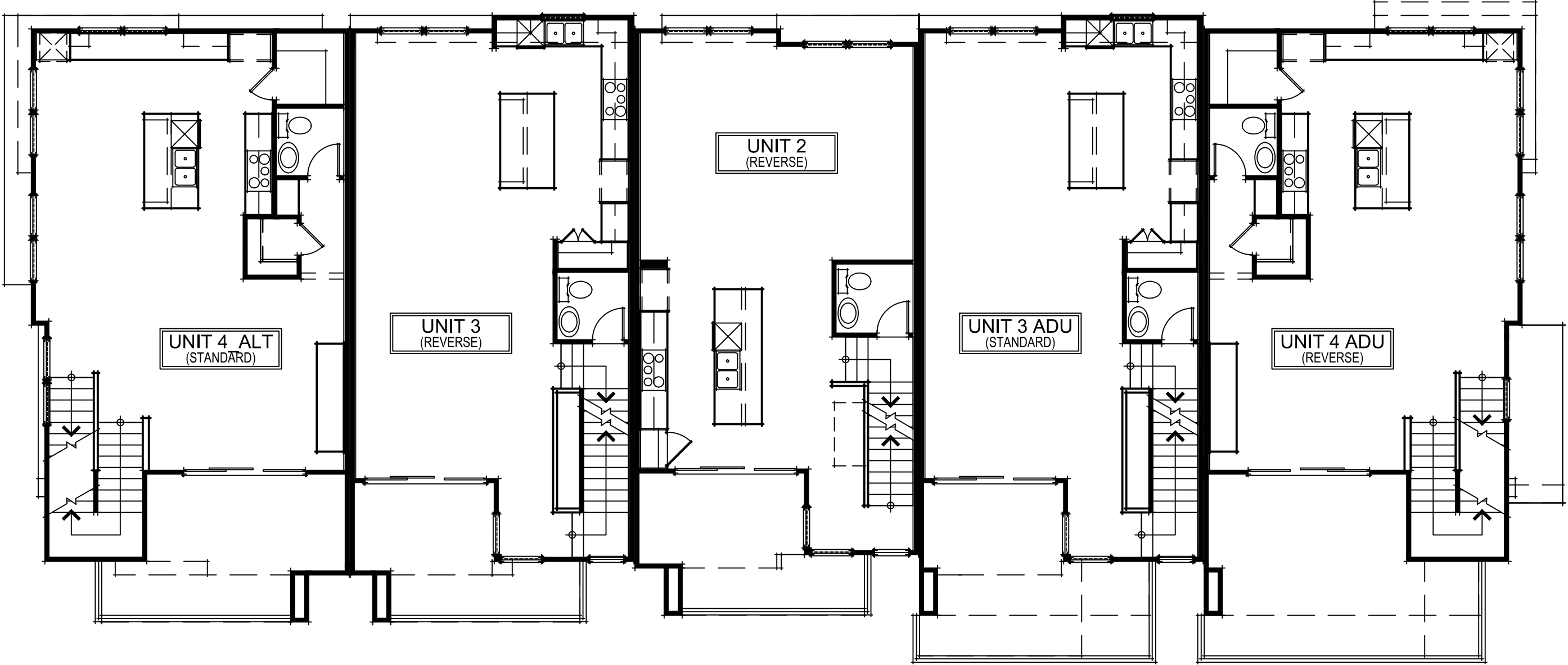
5-UNIT BUILDING 'A' EXTERIOR ELEVATIONS
BUILDING 12
A12

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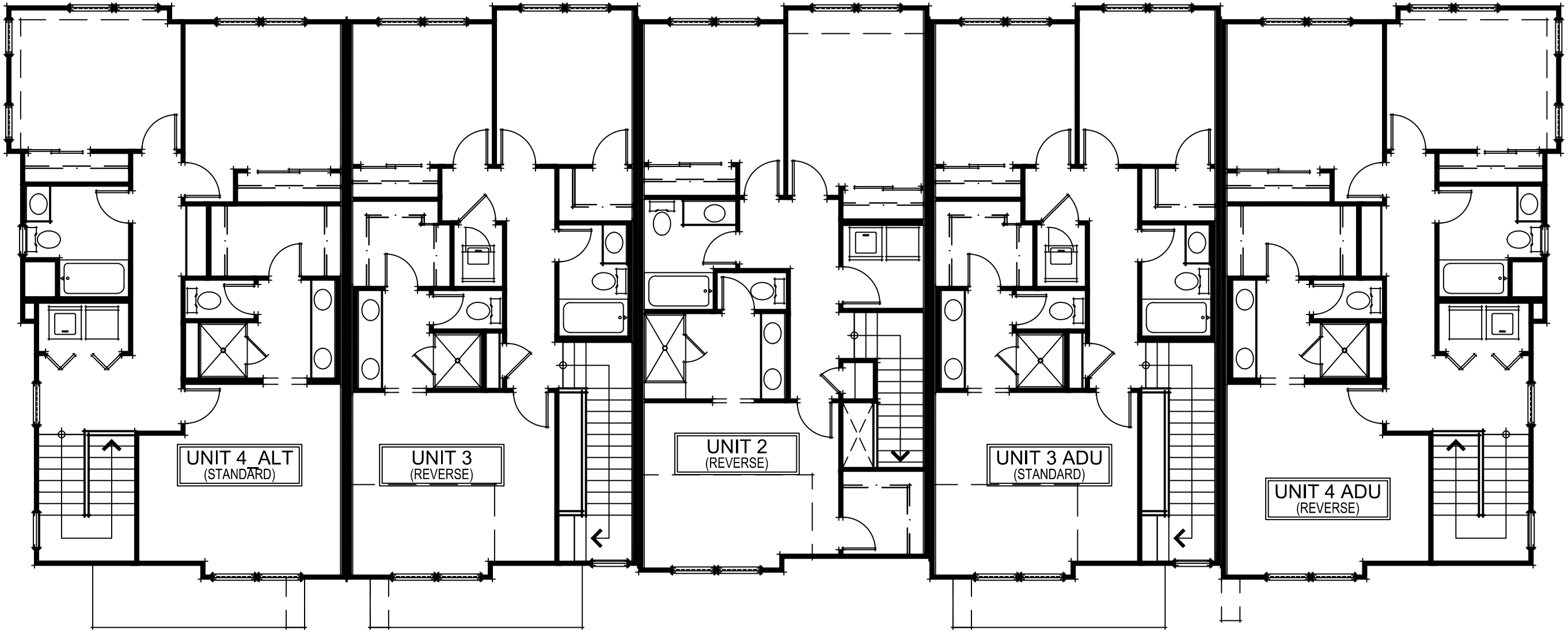




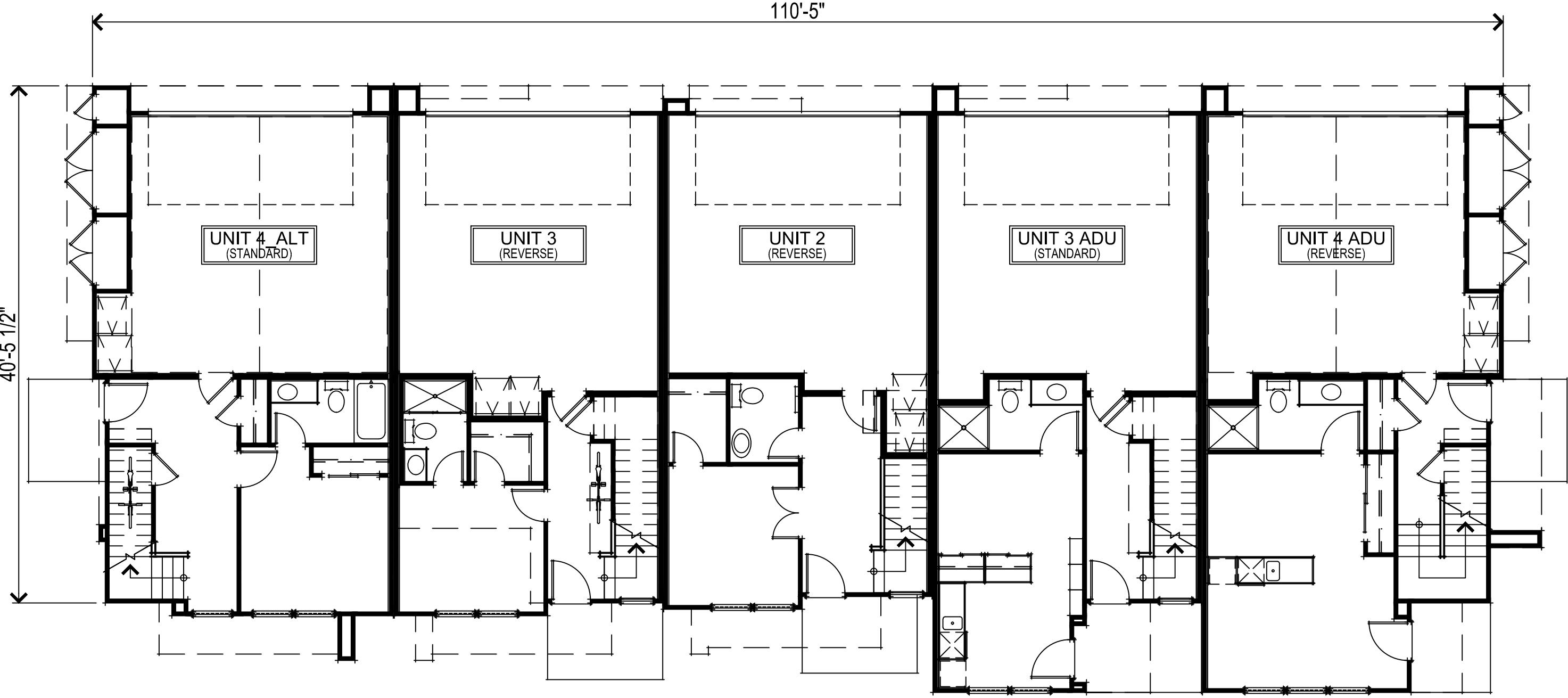
ROOF PLAN



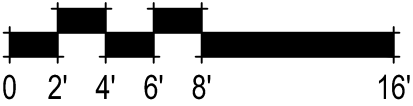
SECOND FLOOR PLAN



THIRD FLOOR PLAN



FIRST FLOOR PLAN



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5-UNIT BUILDING 'B' FLOOR & ROOF PLANS
BUILDING 2
A13

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REAR ELEVATION



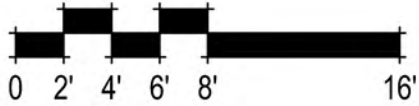
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



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Toll Brothers
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Pleasanton, CA 94566 | 925.249-6000

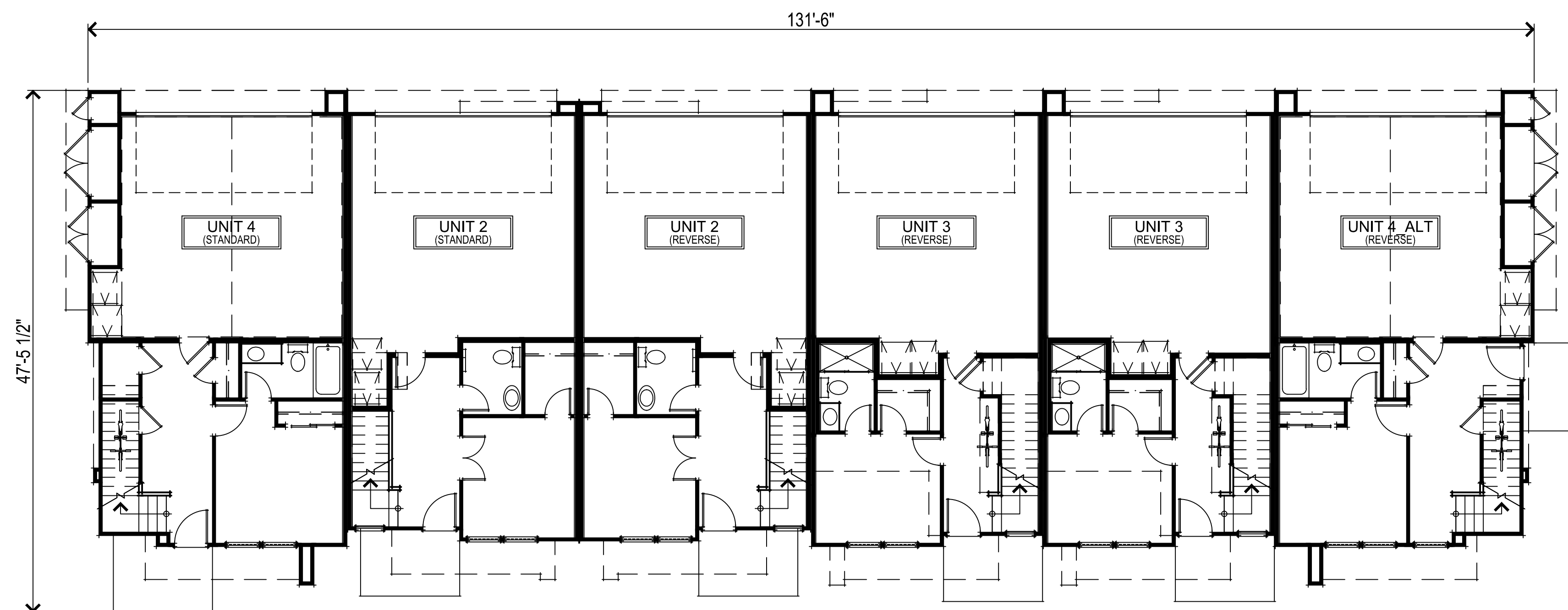
5-UNIT BUILDING 'B' EXTERIOR ELEVATIONS
BUILDING 2
A14

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Brentwood, CA 94513
925.634.7000 | sdgarchitectsinc.com

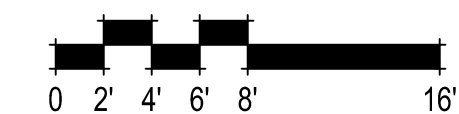




SECOND FLOOR PLAN



FIRST FLOOR PLAN



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

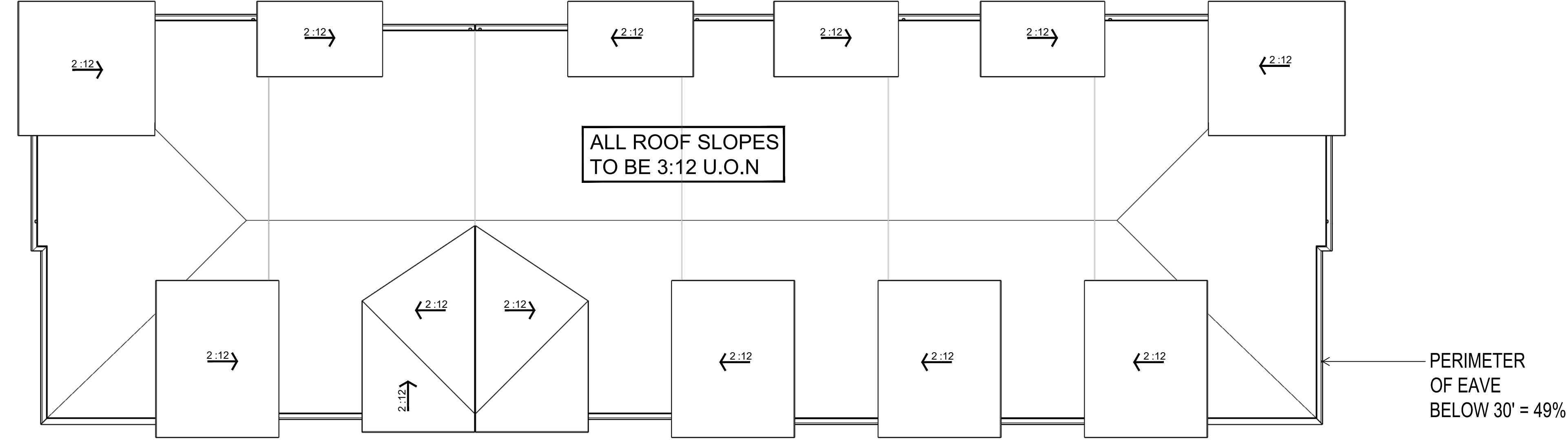
Toll Brothers

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Pleasanton, CA 94566 | 925.249-6000

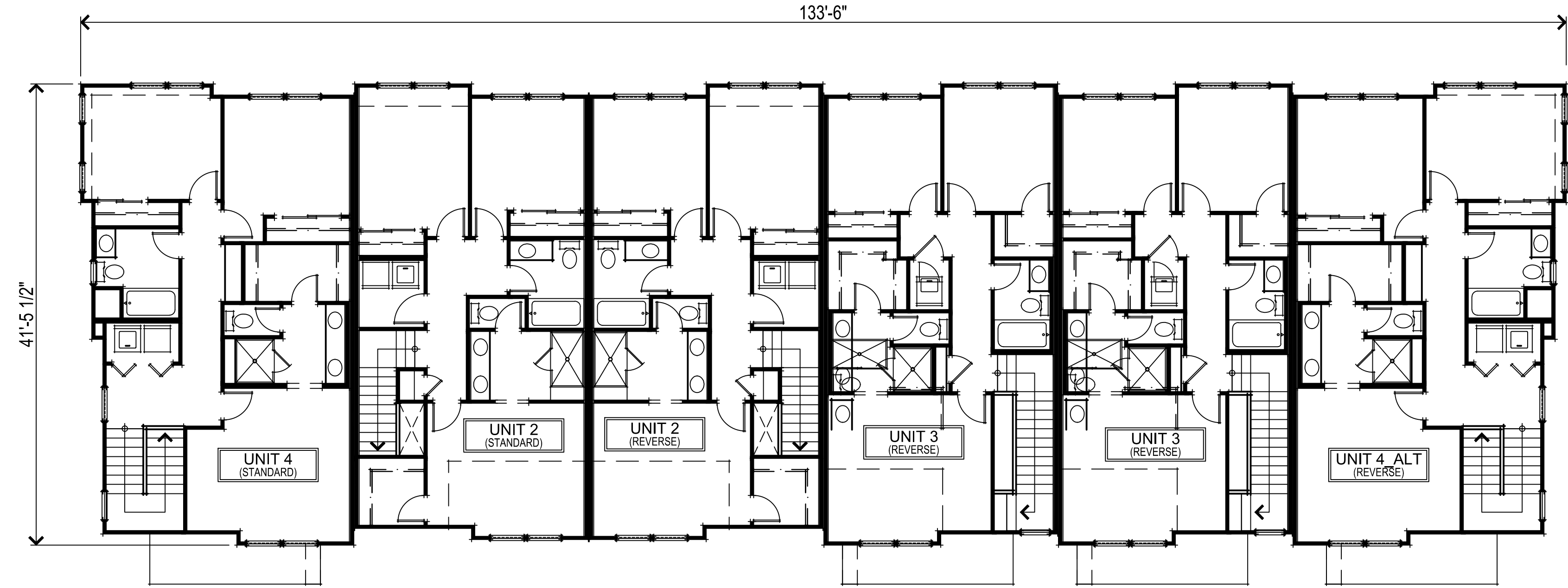
6-UNIT BUILDING 'A' FIRST & SECOND FLOOR PLANS
BUILDINGS 3 & 11
A15

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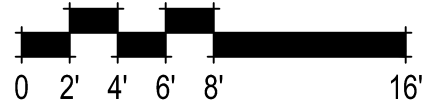




ROOF PLAN



THIRD FLOOR PLAN



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Milpitas, CA
October 7, 2022

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6-UNIT BUILDING 'A' THIRD FLOOR & ROOF PLANS
BUILDINGS 3 & 11
A16

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REAR ELEVATION



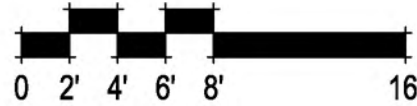
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



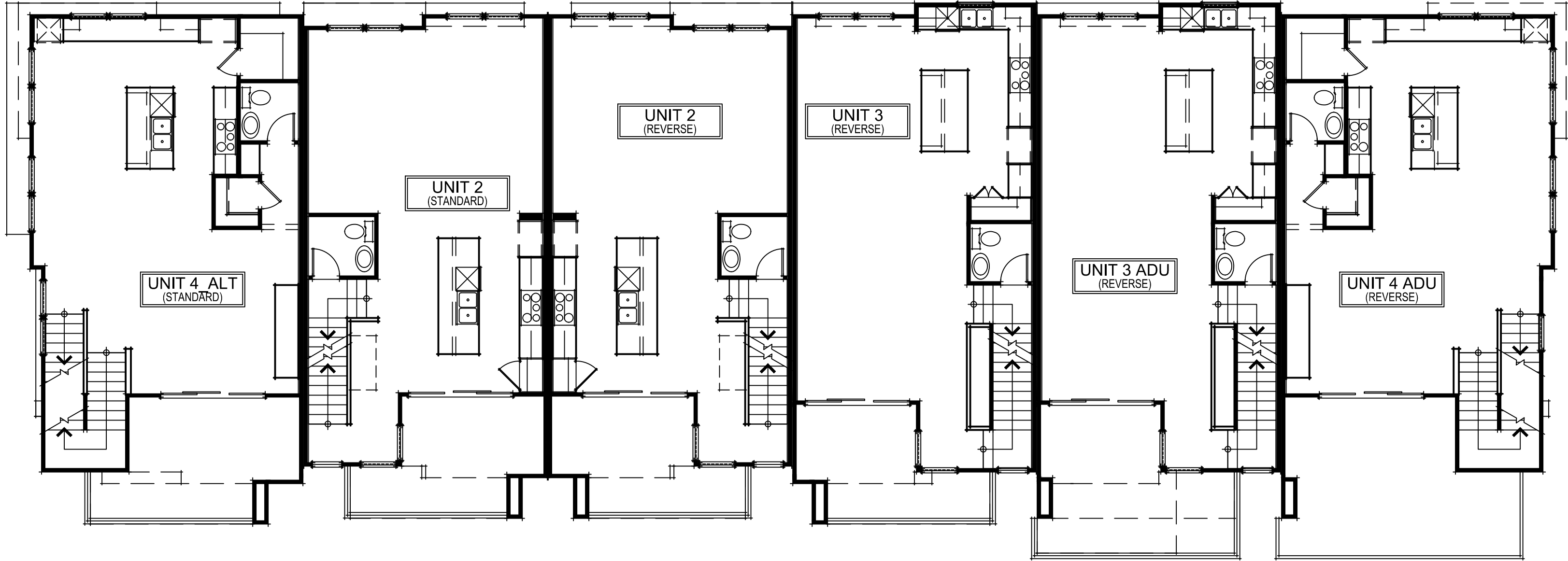
354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

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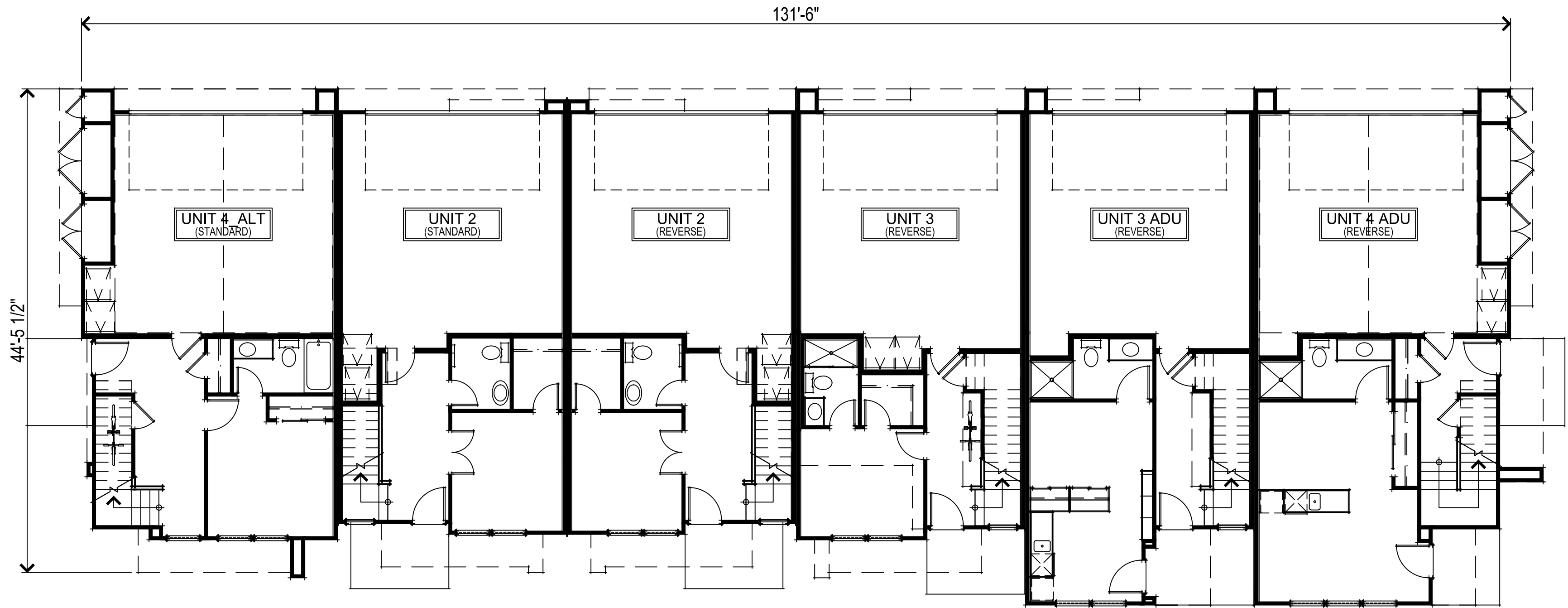
6-UNIT BUILDING 'A' EXTERIOR ELEVATIONS
BUILDINGS 3 & 11
A17

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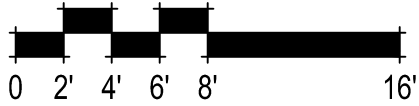




SECOND FLOOR PLAN



FIRST FLOOR PLAN

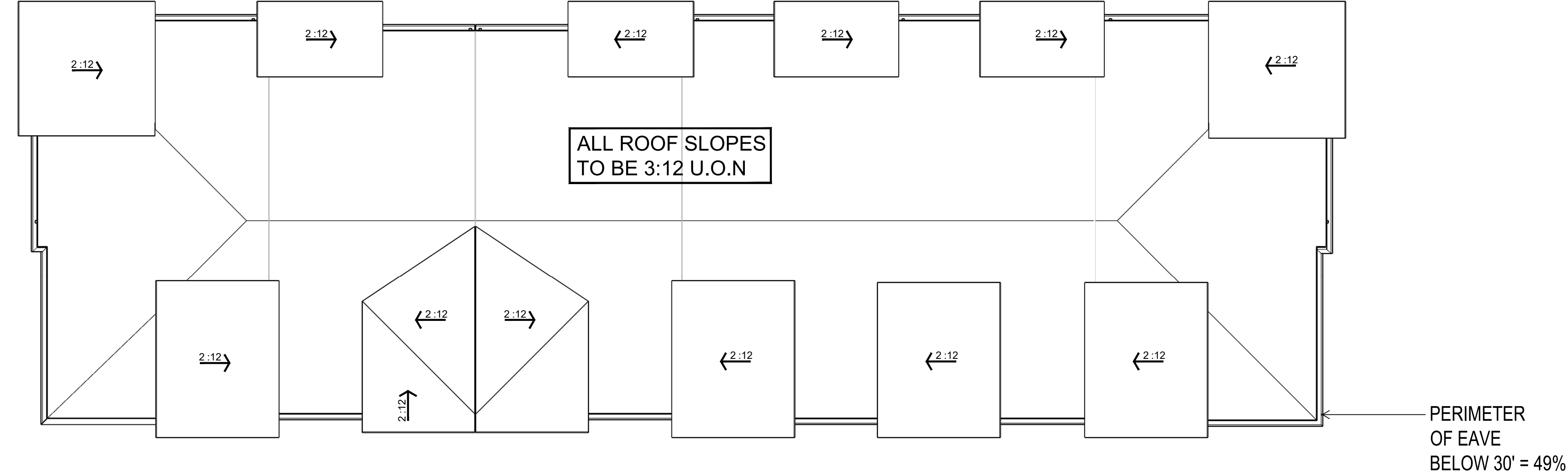


354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

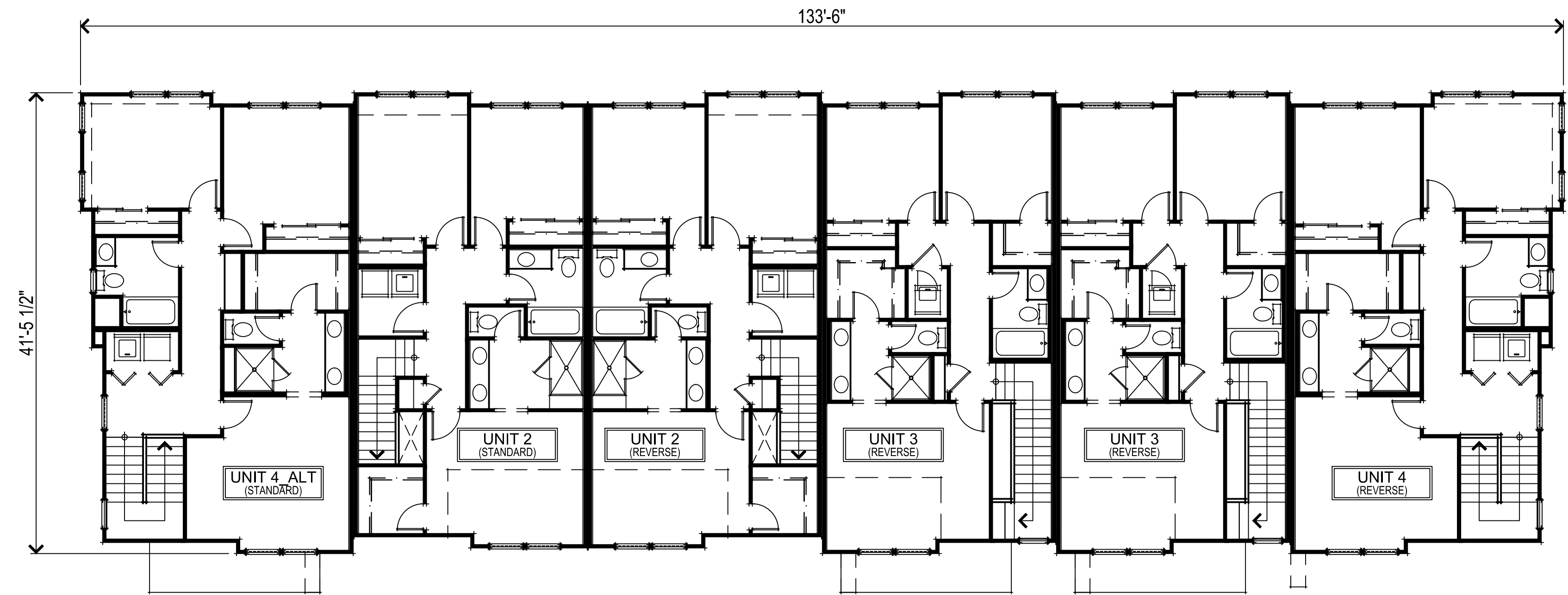
Toll Brothers

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Pleasanton, CA 94566 | 925.249-6000

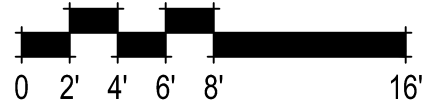
6-UNIT BUILDING 'B' FIRST & SECOND FLOOR PLANS
BUILDING 1
A18



ROOF PLAN



THIRD FLOOR PLAN



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

6-UNIT BUILDING 'B' THIRD FLOOR & ROOF PLANS
BUILDING 1
A19

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REAR ELEVATION



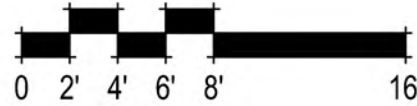
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

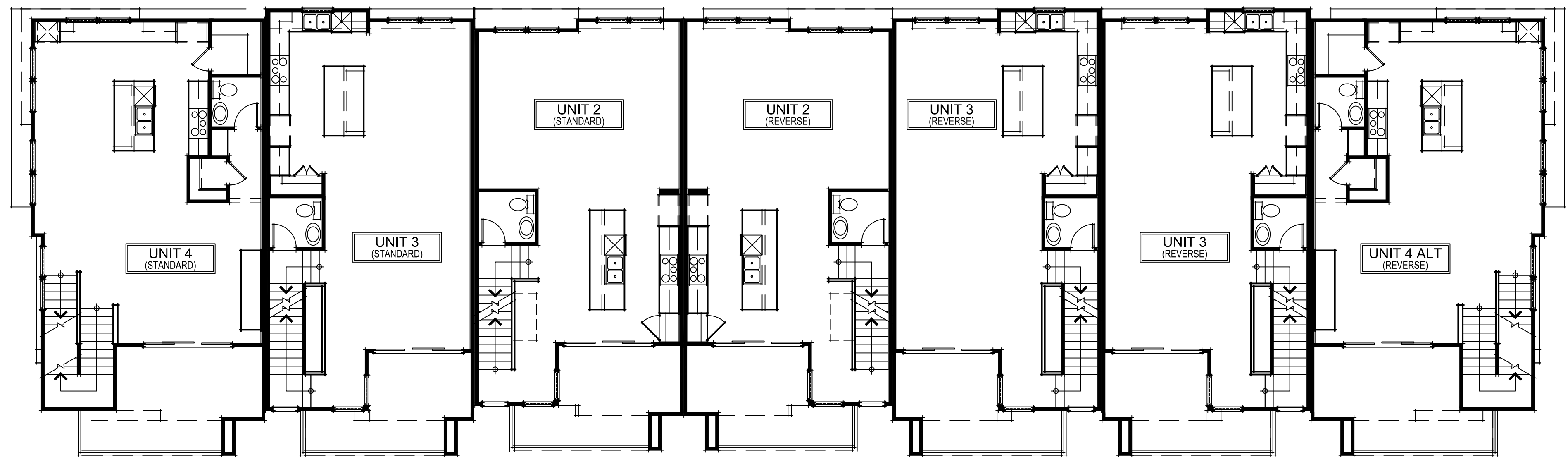
Toll Brothers

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Pleasanton, CA 94566 | 925.249-6000

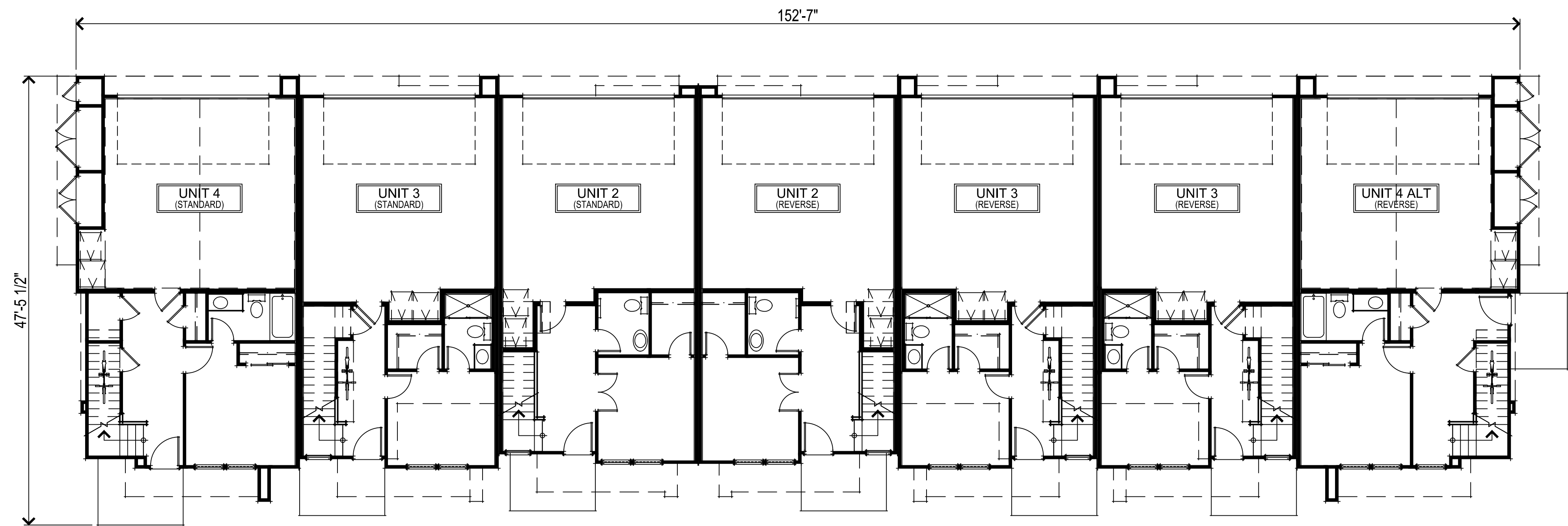
6-UNIT BUILDING 'B' EXTERIOR ELEVATIONS
BUILDING 1 A20

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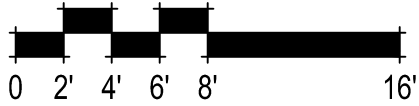




SECOND FLOOR PLAN



FIRST FLOOR PLAN



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

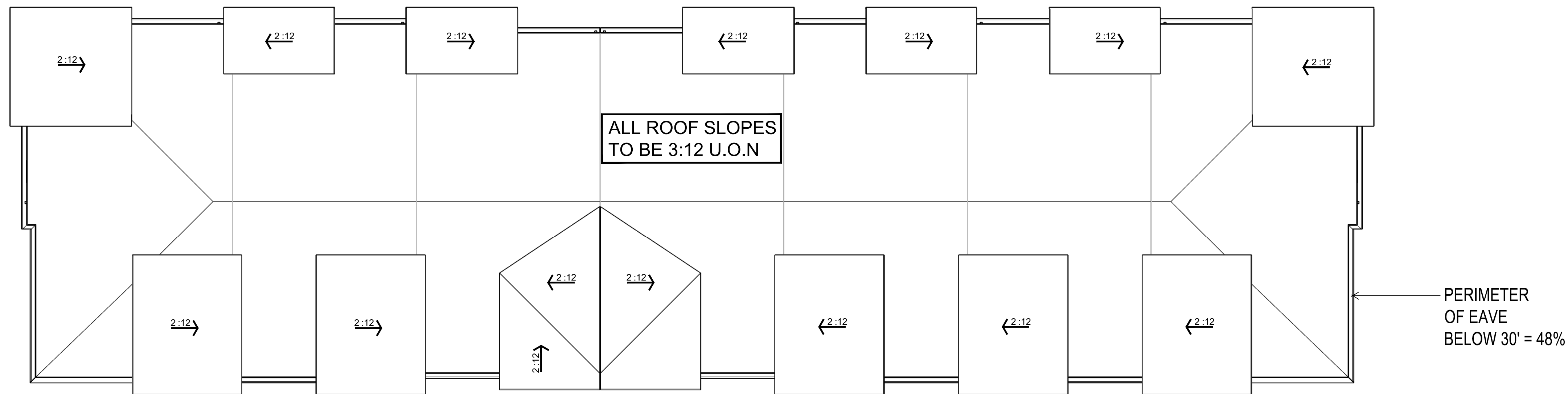
7-UNIT BUILDING FIRST & SECOND FLOOR PLANS
BUILDING 8
A21

Toll Brothers

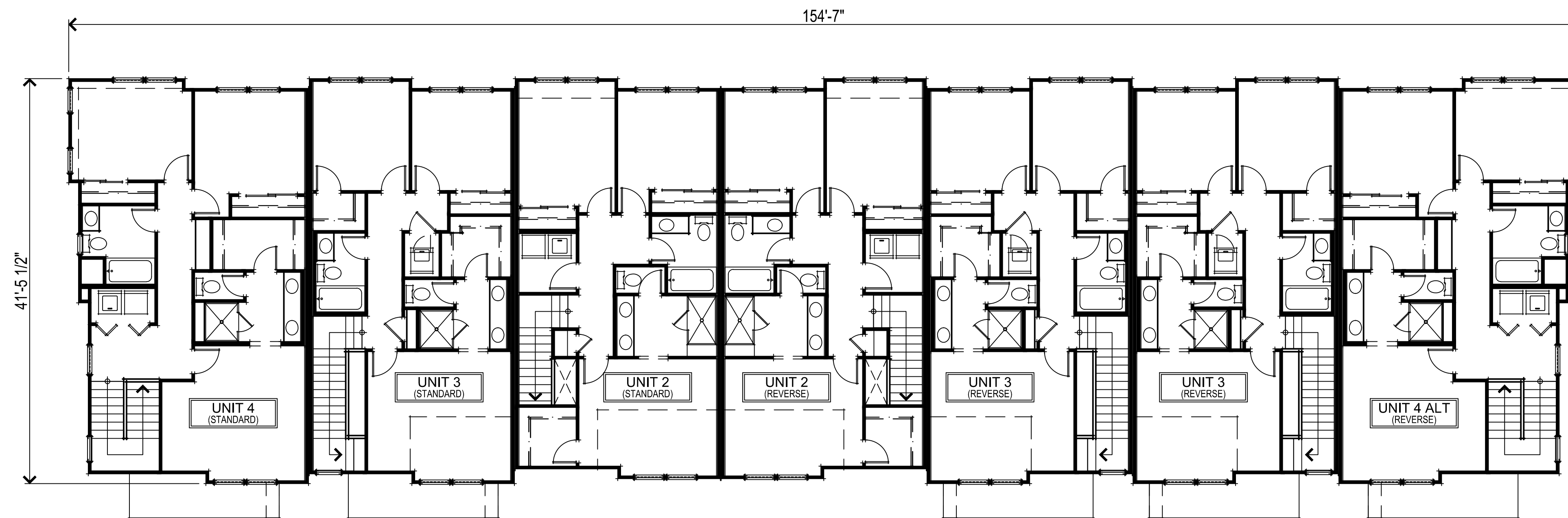
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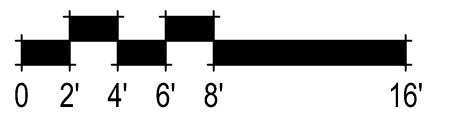




ROOF PLAN



THIRD FLOOR PLAN



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Milpitas, CA
October 7, 2022

Toll Brothers

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7-UNIT BUILDING THIRD FLOOR & ROOF PLANS
BUILDING 8
A22

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REAR ELEVATION



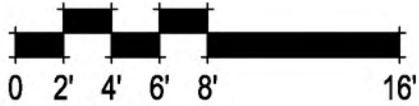
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



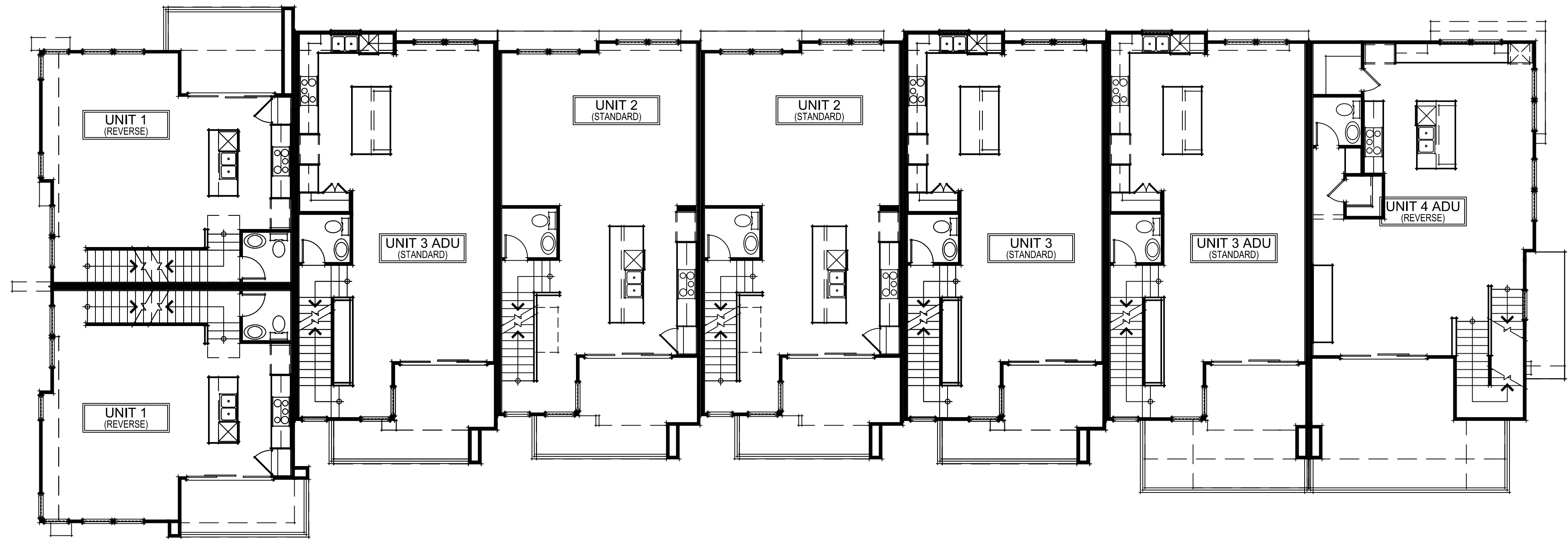
354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

Toll Brothers
6800 Koll Center Parkway, Suite 320
Pleasanton, CA 94566 | 925.249-6000

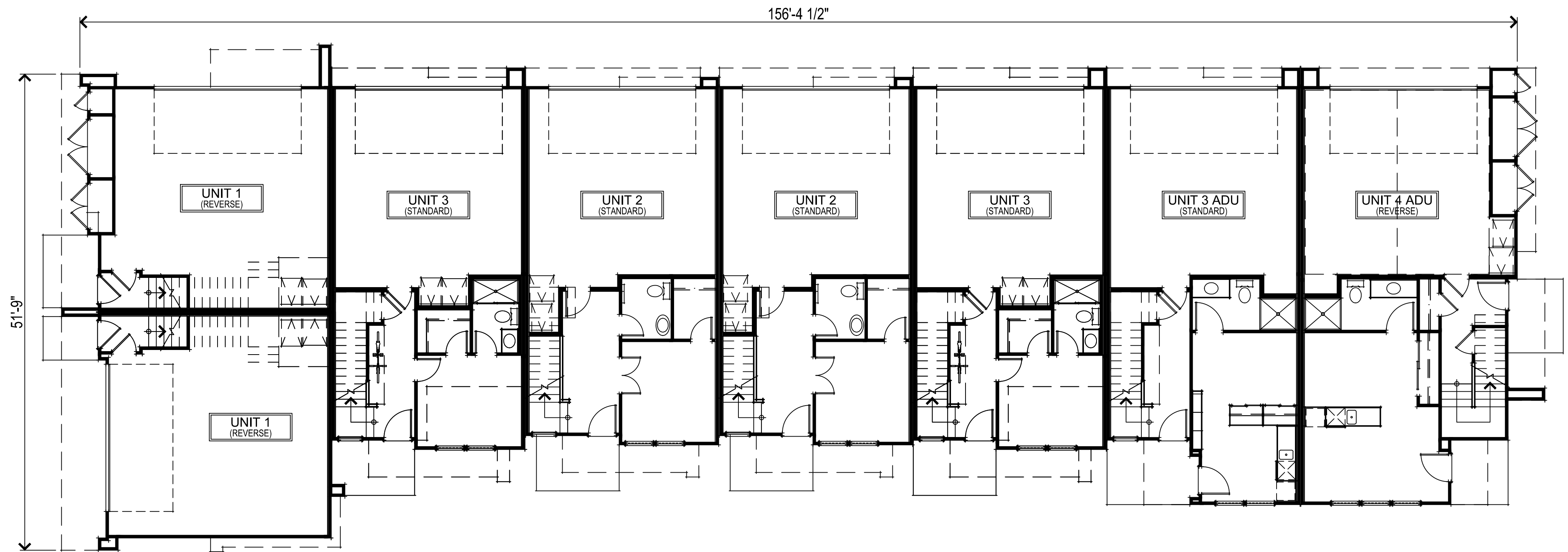
7-UNIT BUILDING EXTERIOR ELEVATIONS
BUILDING 8
A23

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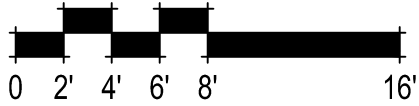




SECOND FLOOR PLAN



FIRST FLOOR PLAN



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

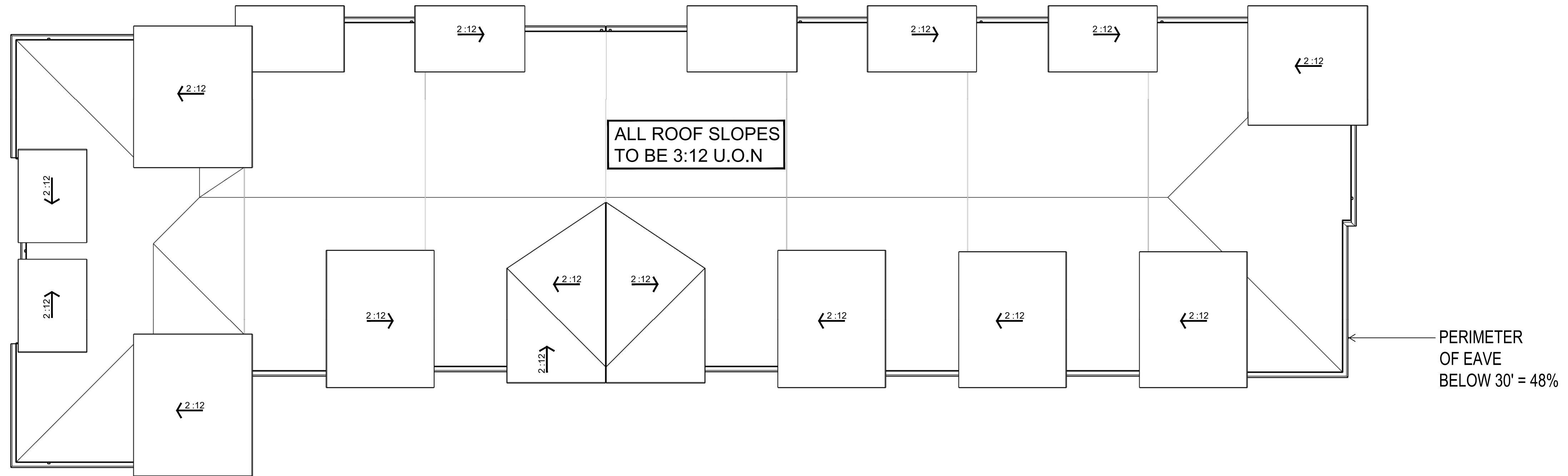
8-UNIT BUILDING FIRST & SECOND FLOOR PLANS
BUILDINGS 4, 5, 6 & 7
A24

Toll Brothers

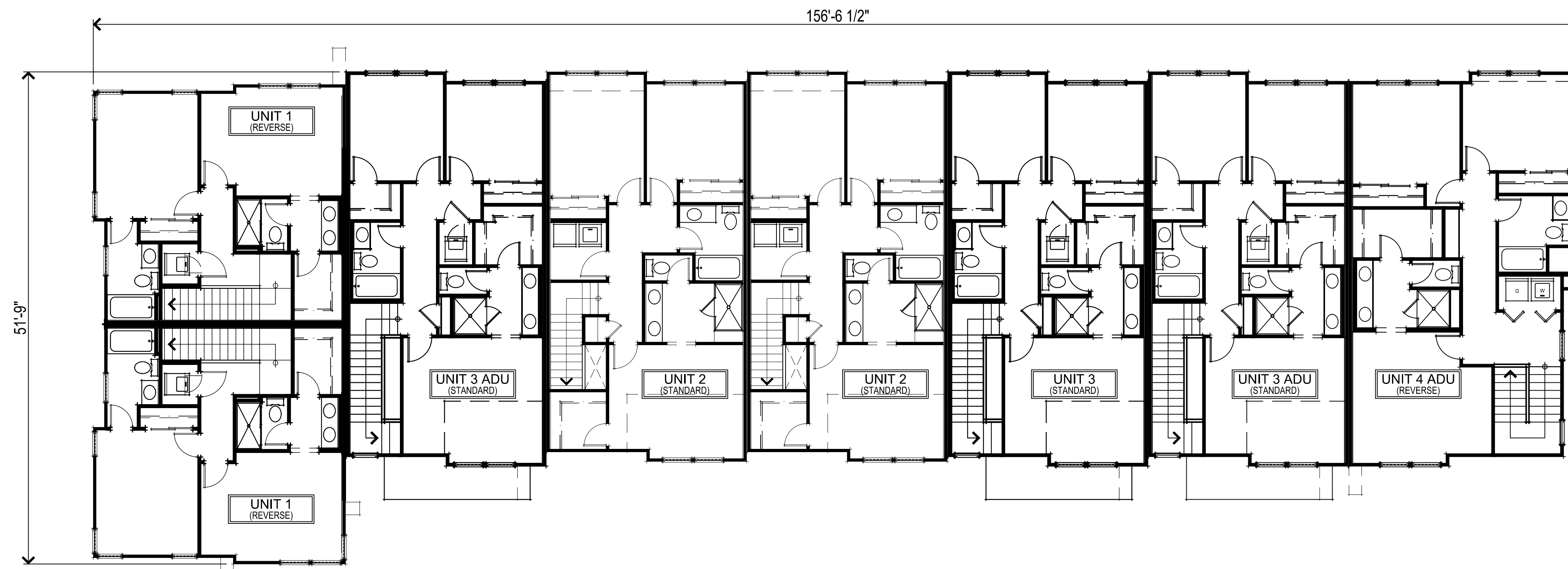
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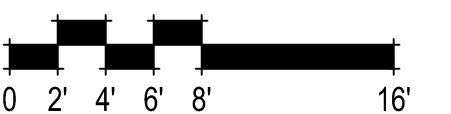




ROOF PLAN



THIRD FLOOR PLAN



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

Toll Brothers

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8-UNIT BUILDING THIRD FLOOR & ROOF PLANS
BUILDINGS 4, 5, 6 & 7
A25

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REAR ELEVATION



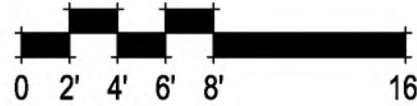
RIGHT ELEVATION



LEFT ELEVATION



FRONT ELEVATION



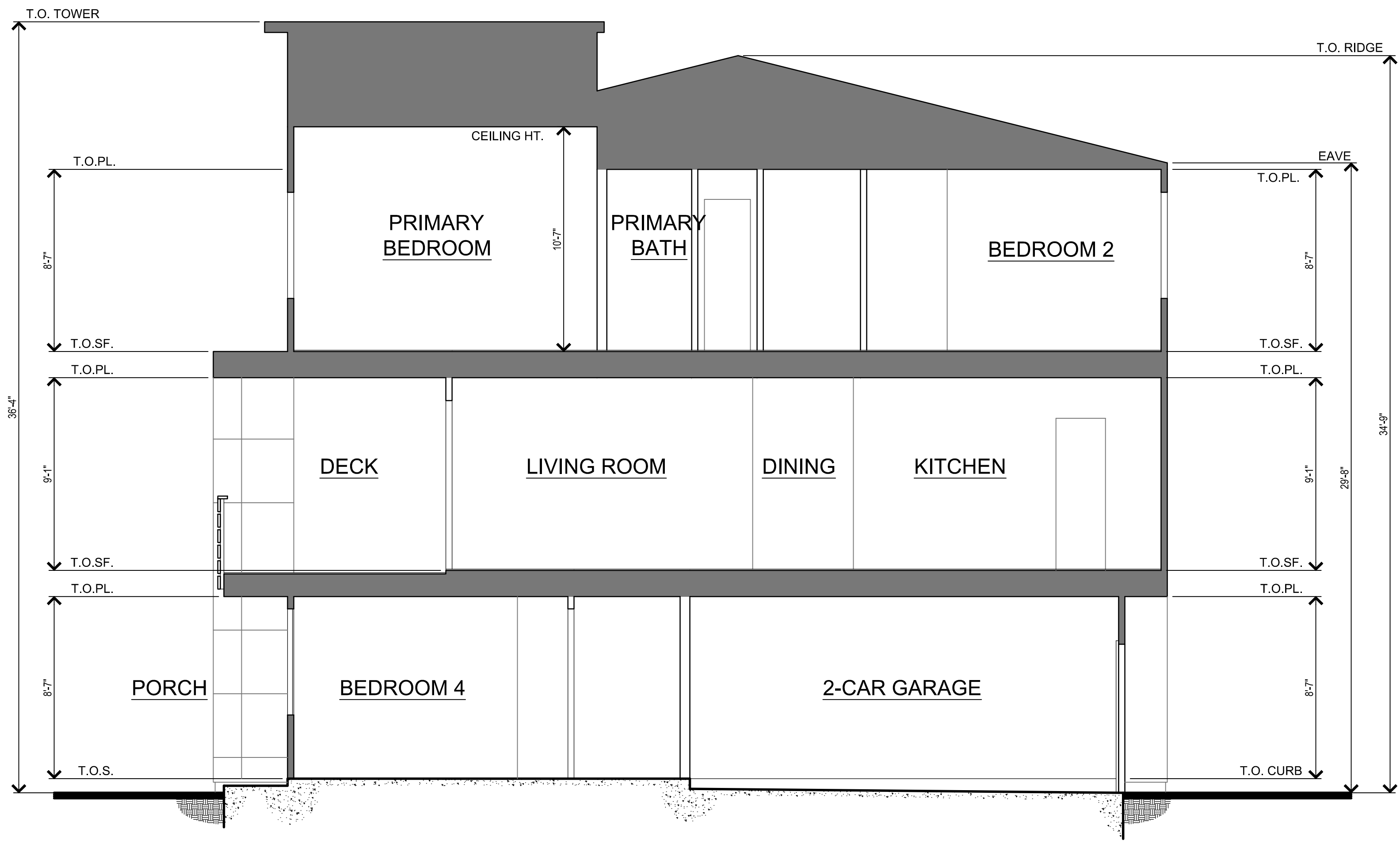
354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

Toll Brothers
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Pleasanton, CA 94566 | 925.249-6000

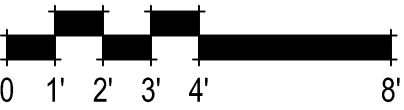
8-UNIT BUILDING EXTERIOR ELEVATIONS
BUILDINGS 4, 5, 6 & 7
A26

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TYPICAL BUILDING SECTION



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Milpitas, CA
October 7, 2022

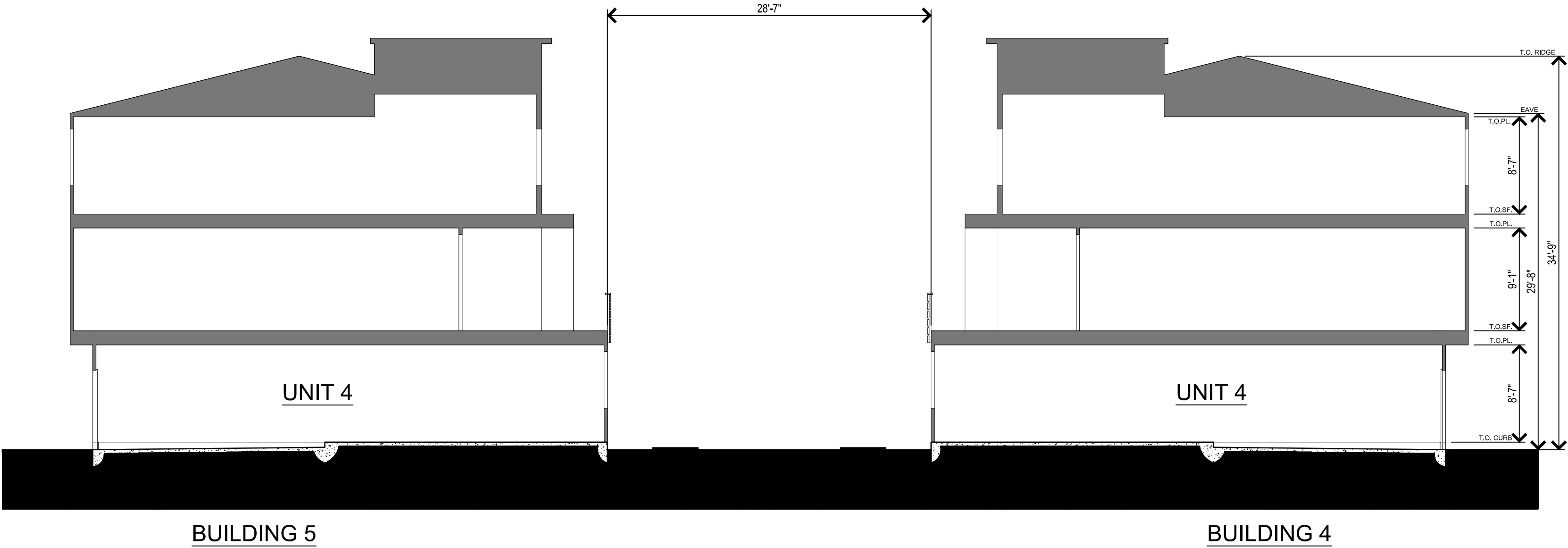
Toll Brothers

6800 Koll Center Parkway, Suite 320
Pleasanton, CA 94566 | 925.249-6000

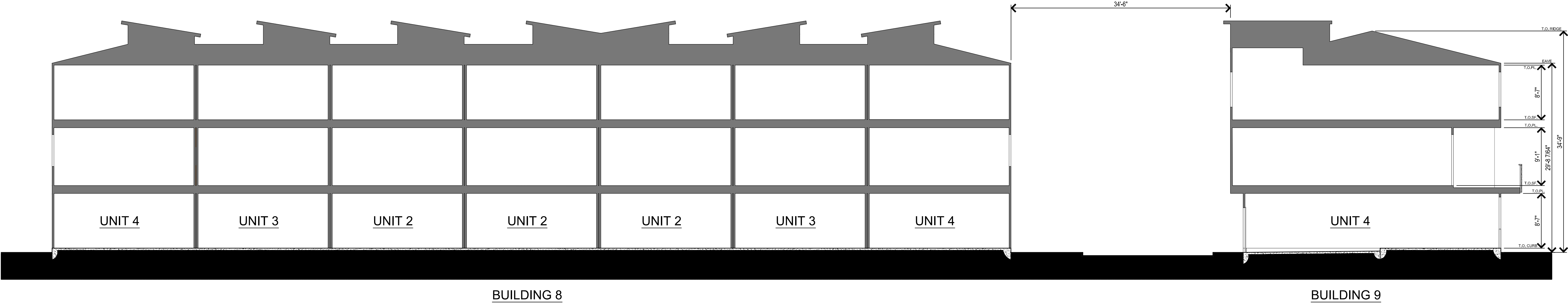
BUILDING SECTION
A27

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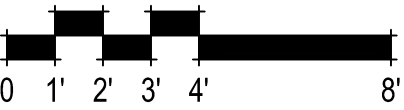




TYPICAL BUILDING SECTION



TYPICAL BUILDING SECTION



354.012 Tarob - Geomax
Milpitas, CA
October 7, 2022

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SITE SECTION A
A28

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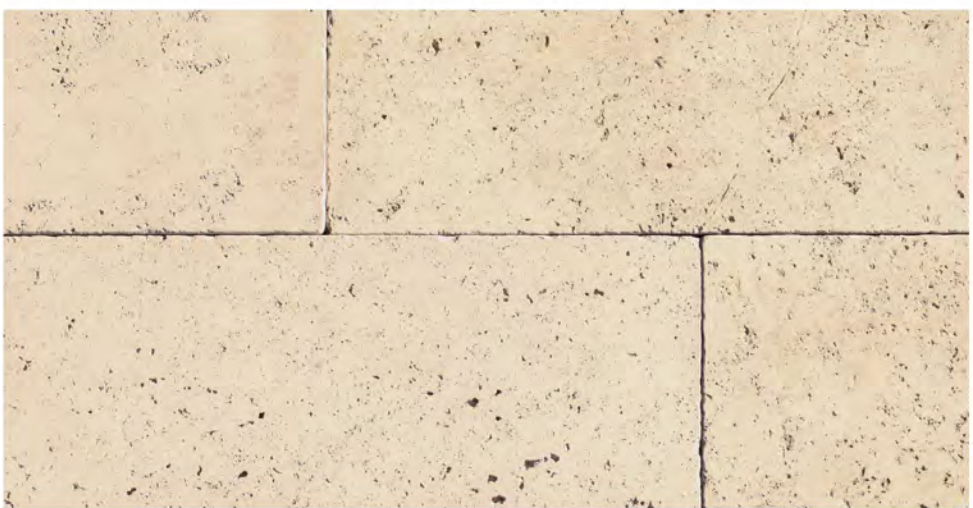
MATERIALS



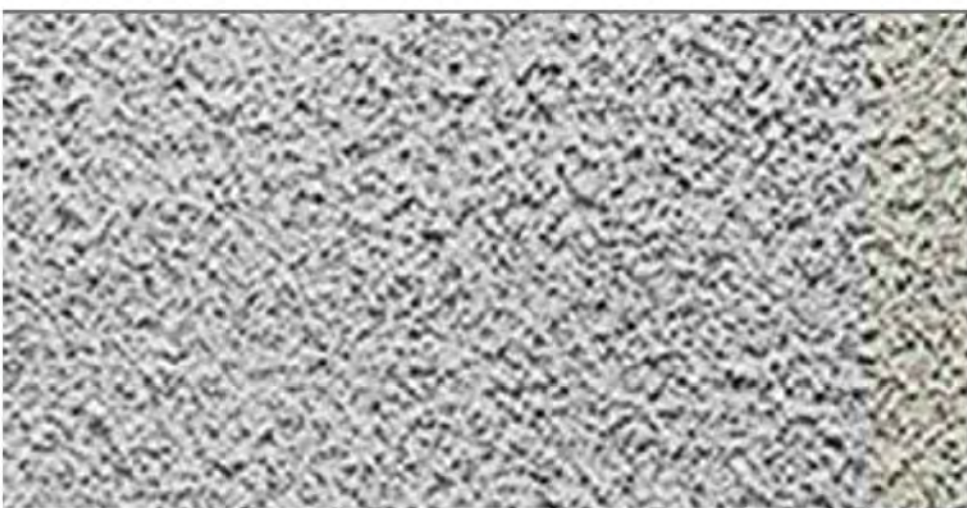
1 VERTICAL SIDING
VERTICAL FIBER CEMENT SIDING



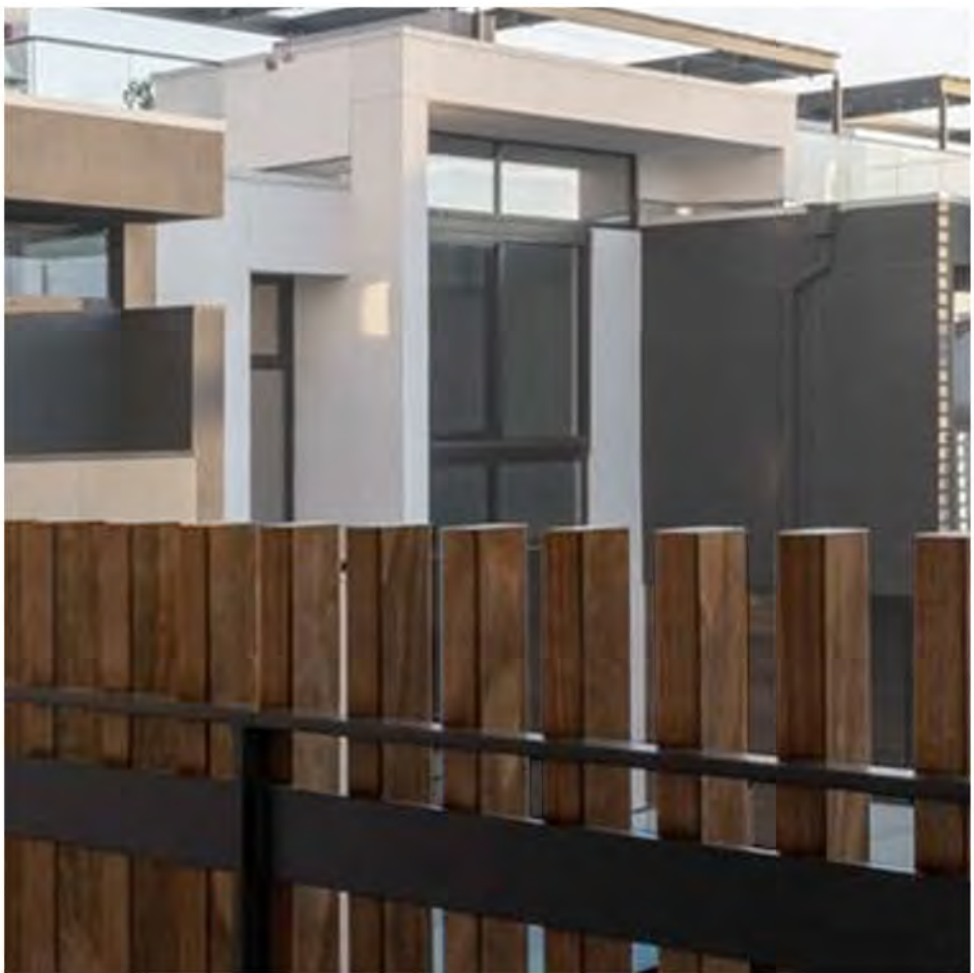
2 HARDIE PANEL SIDING
FIBER CEMENT TEXTURED PANEL SIDING



3 ELDORADO STONE
MARQUEE 24 - SANDLERING



4 STUCCO
LIGHT SAND FINISH STUCCO



5 METAL RAILING
METAL RAILING WITH KEBONY WOOD PICKETS



6 CONTEMPORARY GARAGE DOOR
CLOPLAY STEEL GARAGE DOORS WITH
CONTEMPORARY SLIM WINDOWS



7 WALL SCONCE
LEUCOS OPT. 2 INDIRECT LED SCONCE



8 MODERN DOORS
CONTEMPORARY EXTERIOR DOOR WITH SIDELITE



9 COMP. SHINGLE ROOFING
CERTAINTEED LANDMARK SOLARIS AGED CEDAR

EXTERIOR MATERIALS

- 1 VERTICAL FIBER CEMENT SIDING
- 2 HARDIE FIBER CEMENT TEXTURED PANEL SIDING
- 3 ELDORADO STONE MARQUEE 24 "SANDLERING"
- 4 LIGHT SAND FINISH STUCCO
- 5 METAL RAILINGS KEBONY WOOD PICKETS
- 6 CLOPAY CONTEMPORARY STEEL GARAGE DOORS WITH CONTEMPORARY SLIM WINDOWS
- 7 LEUCOS OPT. 2 INDIRECT LED SCONCE
- 8 MODERN DOORS - CONTEMPORARY EXTERIOR DOOR WITH SIDELITE
- 9 CERTAINTEED LANDMARK SOLARIS AGED CEDAR COMP SHINGLES

COLOR SCHEMES

SCHEME 1

Body 1
SW 9165 Gossamer Veil

Body 2
SW 7068 Grizzle Gray

Body 3
SW 9171 Felted Wool

Entry Door
SW 0012 Empire Gold

SCHEME 2

Body 1
SW 9165 Gossamer Veil

Body 2
SW 7068 Grizzle Gray

Body 3
SW 7748 Green Earth

Entry Door
SW 7729 Endamae

SCHEME 3

Body 1
SW 9165 Gossamer Veil

Body 2
SW 7068 Grizzle Gray

Body 3
SW 6249 Storm Cloud

Entry Door
SW 9149 Inky Blue

COLOR & MATERIALS
A29

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Milpitas, CA
October 7, 2022

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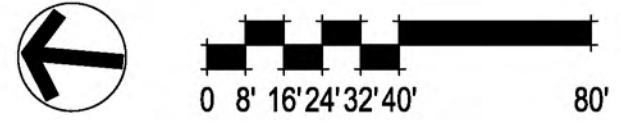
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BUILDING SCHEMES

	COLOR SCHEME 1
	COLOR SCHEME 2
	COLOR SCHEME 3



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COLOR & MATERIALS
A30

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LEGEND		
PROPOSED	DESCRIPTION	EXISTING
---	TRACT BOUNDARY	
---	LOT LINE	
---	RIGHT OF WAY	
---	CENTER LINE	
---	MATCH LINE	
---	RETAINING WALL	
---	EASEMENT LINE	
---	STORM DRAIN	---
---	SANITARY SEWER	---
---	POTABLE WATER	---
---	RECYCLED WATER	---
---	CURB & GUTTER	---
---	SAWCUT	
---	SIDEWALK	
---	EARTH OR GRASS SWALE	
---	VALLEY GUTTER	
■	STORM WATER INLET	□
■	DROP INLET	□
●	AREA DRAIN	
●	BUBBLE UP	
●	MANHOLE	○
○	SANITARY SEWER CLEAN OUT	○
○	SANITARY SEWER LATERAL	○
○	FIRE HYDRANT	○
○	BLOW OFF	○
○	WATER SERVICE WITH METER BOX	○
○	BACKFLOW DEVICE	○
○	WATER VALVE	○
○	AIR RELEASE VALVE	○
○	POST INDICATOR VALVE	○
○	FIRE DEPARTMENT CONNECTION	○
○	SINGLE ARM STREET LIGHT	○
○	DOUBLE ARM STREET LIGHT	○
○	POST TOP LIGHT	○
○	PEDESTRIAN LIGHT	○
○	MONUMENT	○
○	TRAFFIC SIGN	○
○	STREET NAME SIGN	○
○	FENCE	○
○	BARRICADE	○
○	CURB RAMP	○
○	CONTOUR ELEVATIONS	○
○	SPOT ELEVATION	○
○	NEW ASPHALT PAVEMENT	○
○	BIO-RETENTION AREA	○

BENCHMARK
SURVEY DISK SET IN THE TOP OF THE SOUTHEAST CONCRETE WALL OF AN 8' X 9'-FOOT CONCRETE CATCH BASIN, 44.2 FEET SOUTHWEST OF THE SOUTHWEST RAIL OF THE TRACK, 31.5 FEET NORTHWEST OF THE CENTERLINE OF THE ROAD, 0.8 FEET WEST OF THE EAST CORNER OF THE WALL, AND ABOUT 2 FEET LOWER THAN THE TRACK.

ELEVATION = 51.91 (NAVD 88)

SHEET INDEX

SHEET NO. DESCRIPTION

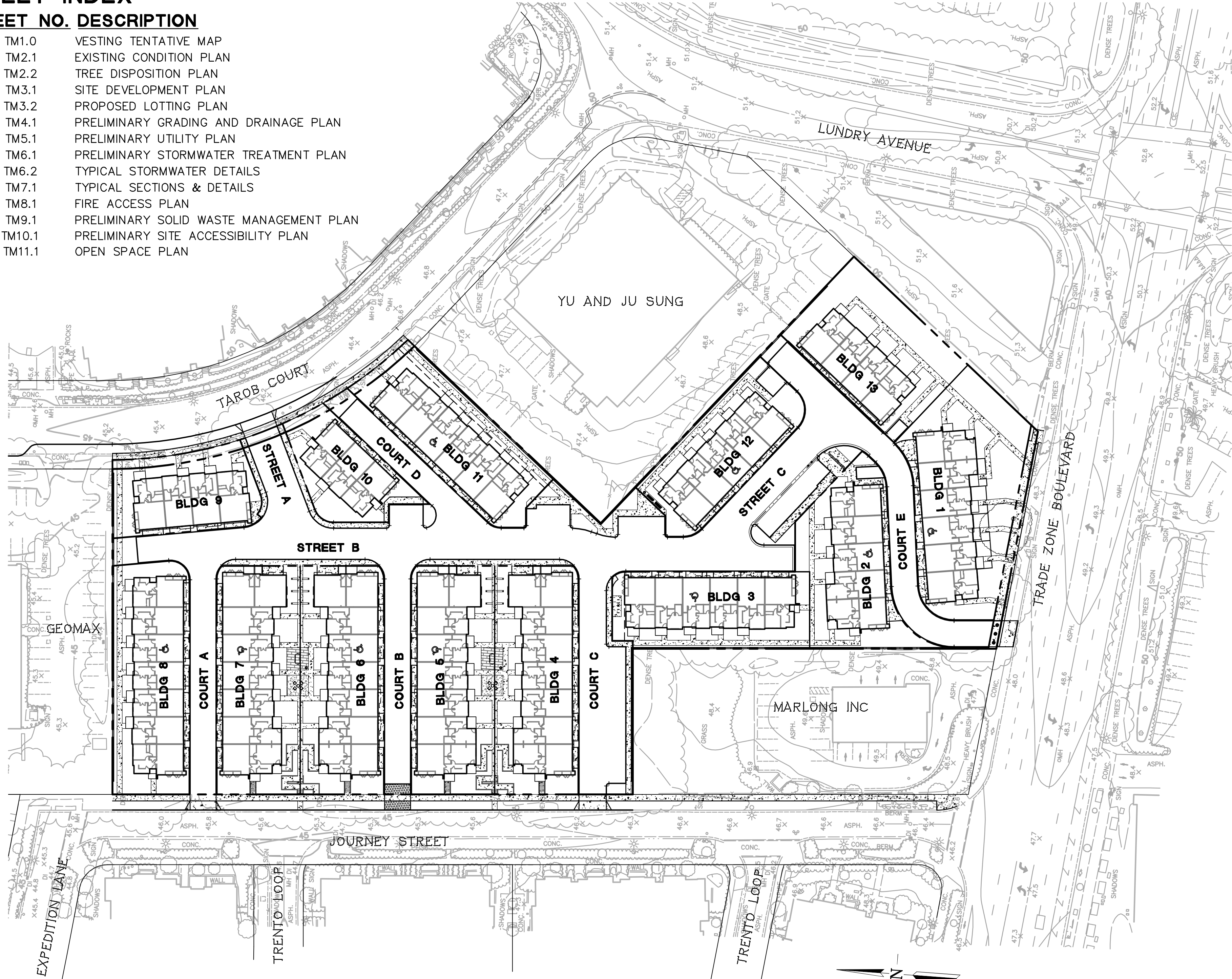
TM1.0	VESTING TENTATIVE MAP
TM2.1	EXISTING CONDITION PLAN
TM2.2	TREE DISPOSITION PLAN
TM3.1	SITE DEVELOPMENT PLAN
TM3.2	PROPOSED LOTTING PLAN
TM4.1	PRELIMINARY GRADING AND DRAINAGE PLAN
TM5.1	PRELIMINARY UTILITY PLAN
TM6.1	PRELIMINARY STORMWATER TREATMENT PLAN
TM6.2	TYPICAL STORMWATER DETAILS
TM7.1	TYPICAL SECTIONS & DETAILS
TM8.1	FIRE ACCESS PLAN
TM9.1	PRELIMINARY SOLID WASTE MANAGEMENT PLAN
TM10.1	PRELIMINARY SITE ACCESSIBILITY PLAN
TM11.1	OPEN SPACE PLAN

VESTING TENTATIVE MAP

GEOMAX

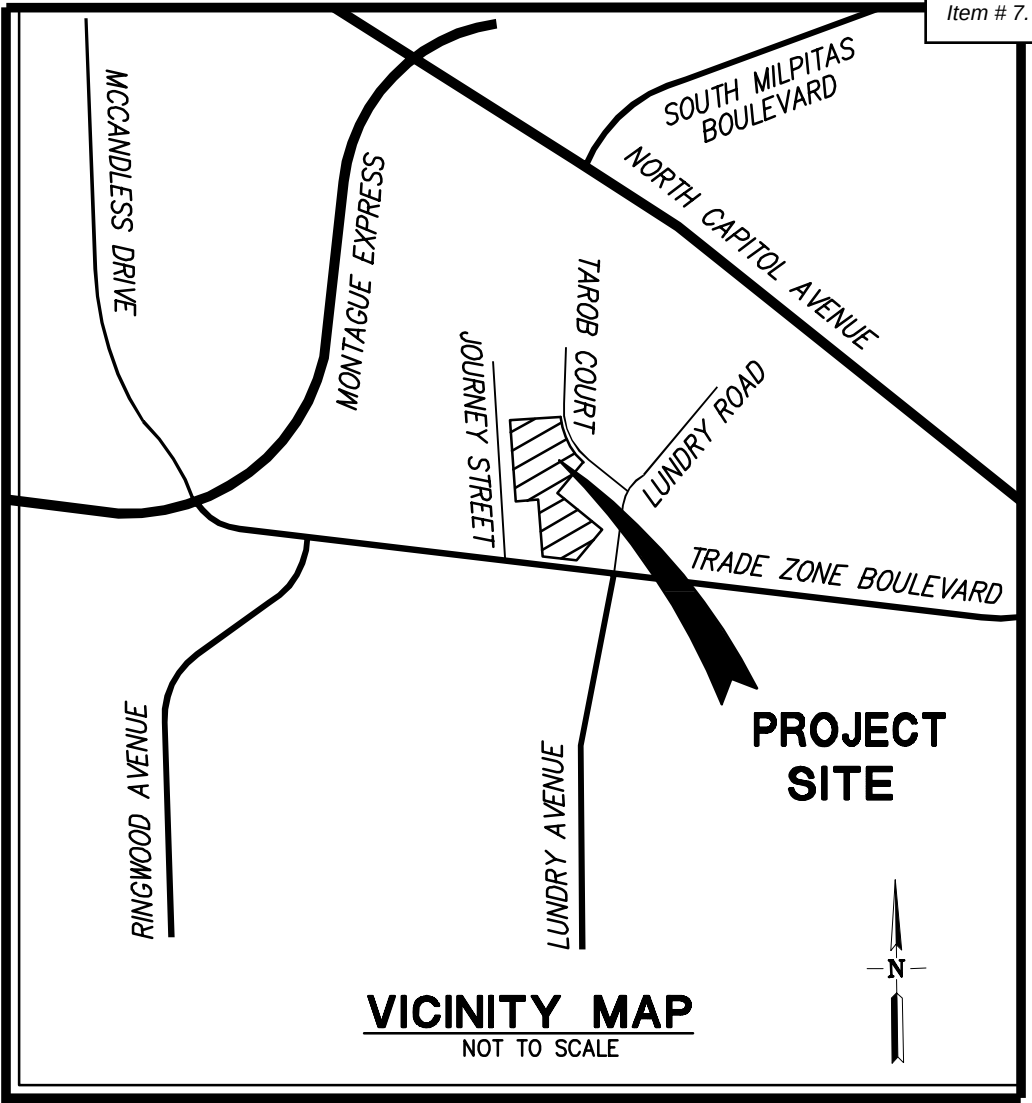
CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

FOR: TOLL BROTHERS



LOCATION MAP

SCALE: 1"=50'



VICINITY MAP

NOT TO SCALE

- OWNER:**
GEOMAX,
C/O TOLL BROTHERS
6800 KOLL CENTER PARKWAY, SUITE 320
PLEASANTON, CA 94566
(925) 249-6010
CONTACT: ALLIE SWEENEY
- DEVELOPER:**
TOLL BROTHERS
6800 KOLL CENTER PARKWAY, SUITE 320
PLEASANTON, CA 94566
(925) 249-6010
CONTACT: ALLIE SWEENEY
- CIVIL ENGINEER:**
RUGGERI-JENSEN-AZAR
4690 CHABOT DRIVE, SUITE 200
PLEASANTON, CA 94588
(925) 227-9100
CONTACT: DOMINIC CARUCCI, RCE 85585
- GEOTECHNICAL ENGINEER:**
ENGE
751 13TH STREET,
SAN FRANCISCO, CA 94130
(858) 282-1595
CONTACT: TERESA KLOTZBACK
- ASSESSOR'S PARCEL NUMBERS:**
086-36-033, 086-36-045
- PROPERTY DESCRIPTION:**
PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED SEPTEMBER 20, 1993 IN BOOK 650 OF MAPS, PAGE 25 AND 26, AND PARCEL 3, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP", WHICH WAS FILED FOR RECORD ON NOVEMBER 28, 1978 IN BOOK 431 OF MAPS, PAGE(S) 2 AND 3, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, STATE OF CALIFORNIA.
- EXISTING USE:**
INDUSTRIAL
- PROPOSED USE:**
MULTI-FAMILY RESIDENTIAL
- EXISTING ZONING:**
R-3 TOD
- PROPOSED ZONING:**
R-3 TOD
- GENERAL PLAN LAND DESIGNATION:**
MILPITAS METRO SPECIFIC PLAN
- GROSS AREA:**
4.1± ACRES
- TOTAL NUMBER OF LOTS:**
14
- TOTAL NUMBER OF UNITS:**
78
- UTILITIES:**
 - WATER:**
CITY OF MILPITAS
 - SANITARY SEWER:**
CITY OF MILPITAS
 - STORM DRAIN:**
CITY OF MILPITAS
 - GAS AND ELECTRIC:**
PACIFIC GAS AND ELECTRIC
 - TELEPHONE:**
AT&T
 - CABLE TV:**
COMCAST
- TOPOGRAPHIC INFORMATION SHOWN IS BASED ON AERIAL SURVEY PREPARED IN FEBRUARY 2022.**
- THE PROPERTY IS WITHIN ZONE AO (DEPTH 1'), AS SHOWN IN FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 06085C0069H, DATED MAY 18, 2009.**
- IT IS THE INTENT OF THE DEVELOPER TO FILE CONDOMINIUM PLANS AFTER THE FINAL MAP APPROVAL.**

354.012 Tarob - Geomax
Milpitas, CA
July 12, 2022

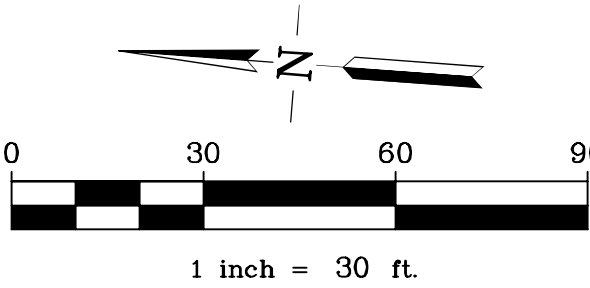
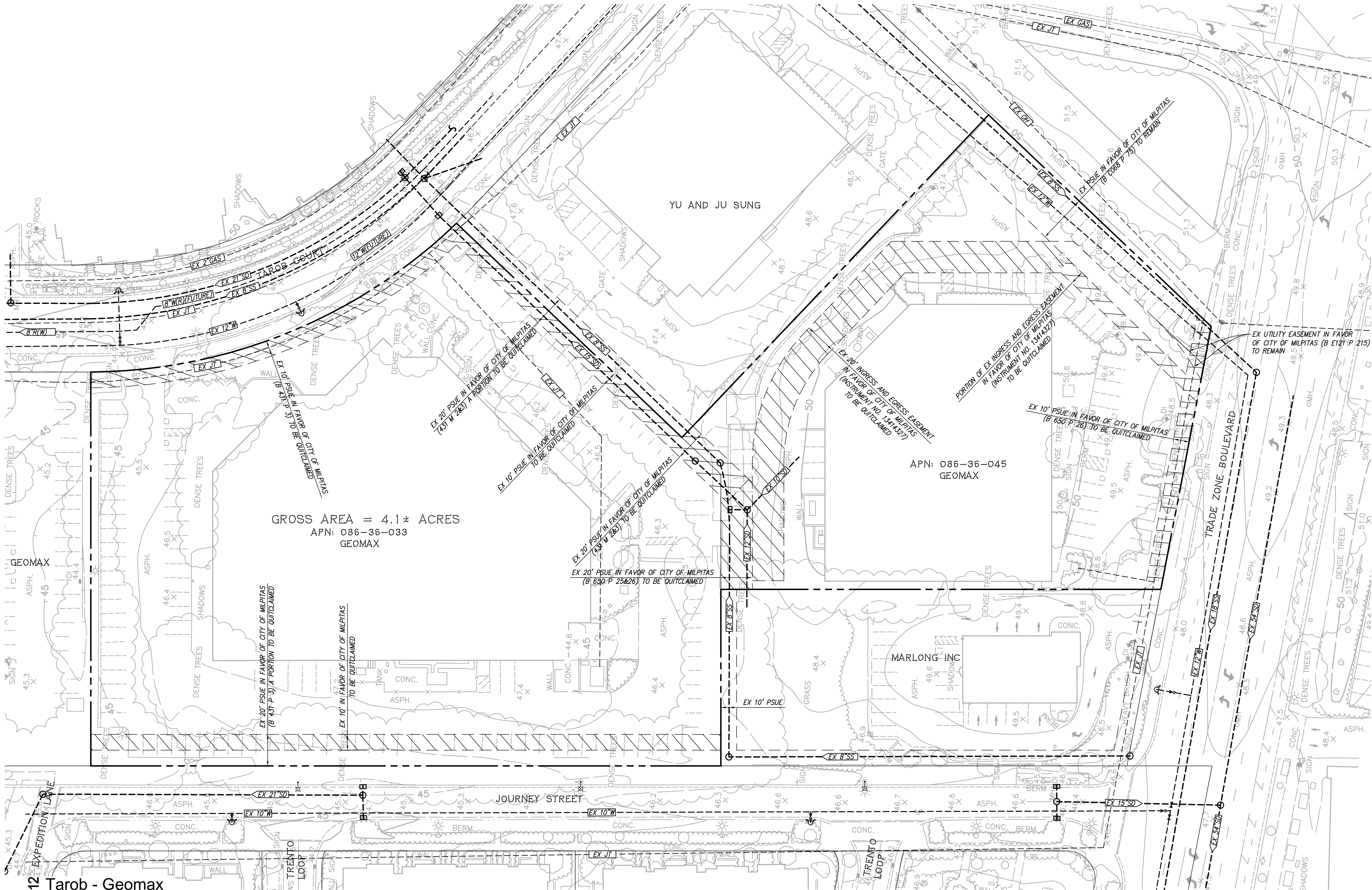
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TM1.0



RUGGERI-JENSEN-AZAR
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EXISTING CONDITION PLAN
TM2.1

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Milpitas, CA
July 12, 2022

Toll Brothers

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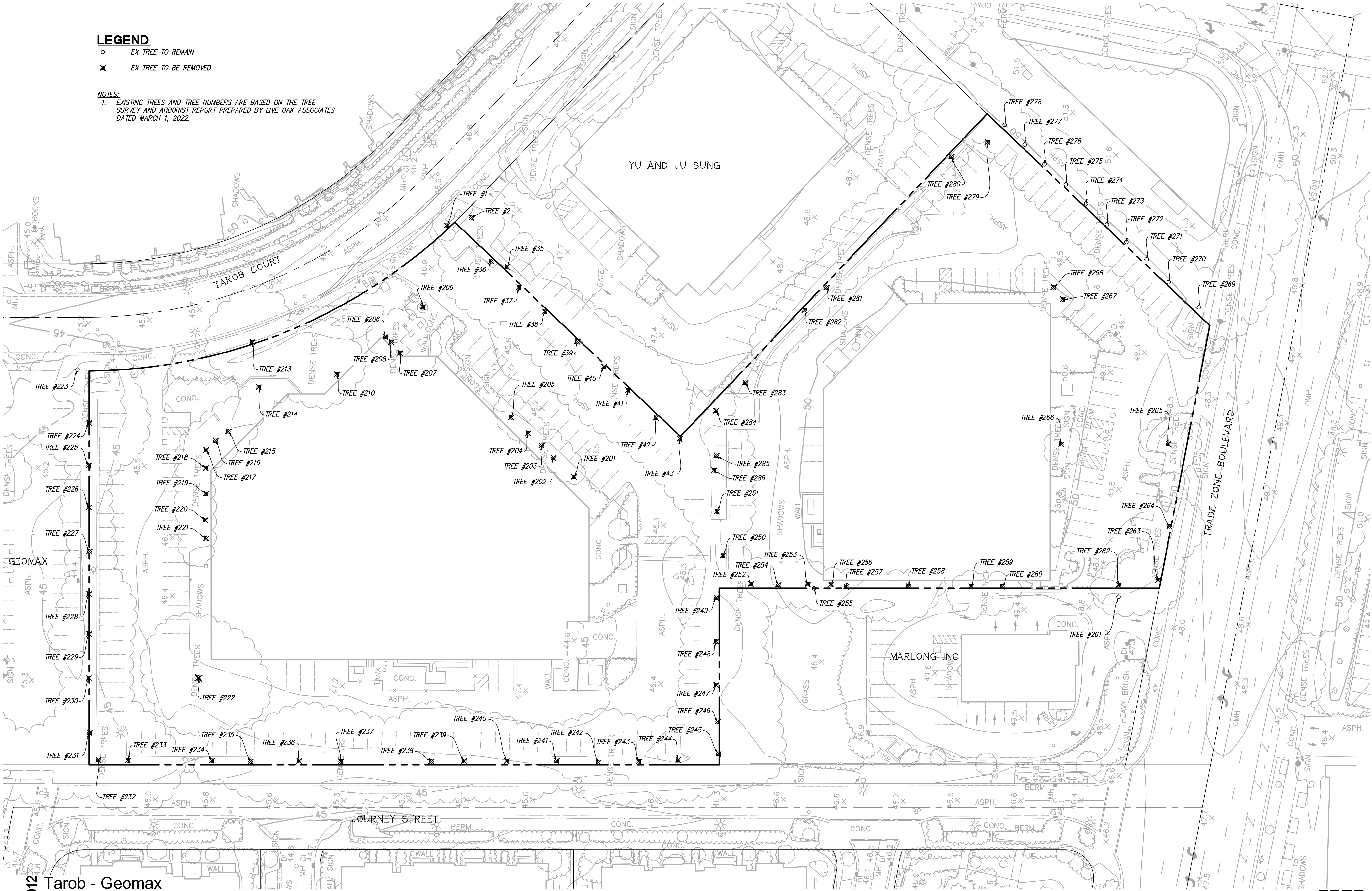
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LEGEND

- EX TREE TO REMAIN
- ✕ EX TREE TO BE REMOVED

NOTES:

1. EXISTING TREES AND TREE NUMBERS ARE BASED ON THE TREE SURVEY AND ARBORIST REPORT PREPARED BY LIVE OAK ASSOCIATES DATED MARCH 1, 2022.



TREE NO.	COMMON NAME	PROPOSED
1	American sycamore	Remove
36	Evergreen ash	Remove
37	Evergreen ash	Remove
38	Evergreen ash	Remove
39	Evergreen ash	Remove
40	Evergreen ash	Remove
41	Evergreen ash	Remove
42	Evergreen ash	Remove
43	Evergreen ash	Remove
201	Water gum	Remove
202	Water gum	Remove
203	Water gum	Remove
204	Water gum	Remove
205	Water gum	Remove
206	Flowering cherry	Remove
207	European white birch	Remove
208	European white birch	Remove
209	European white birch	Remove
210	European white birch	Remove
211	European white birch	Remove
212	European white birch	Remove
213	American sycamore	Remove
214	Flowering cherry	Remove
215	Water gum	Remove
216	Water gum	Remove
217	Water gum	Remove
218	Water gum	Remove
219	Water gum	Remove
220	Water gum	Remove
221	Water gum	Remove
222	Evergreen ash	Remove
223	American sycamore	Retain
224	Evergreen ash	Remove
225	Evergreen ash	Remove
226	Evergreen ash	Remove
227	Evergreen ash	Remove
228	Evergreen ash	Remove
229	Evergreen ash	Remove
230	Evergreen ash	Remove
231	Evergreen ash	Remove
232	Evergreen ash	Remove
233	Evergreen ash	Remove
234	American sycamore	Remove
235	Evergreen ash	Remove
236	Evergreen ash	Remove
237	Evergreen ash	Remove
238	Evergreen ash	Remove
239	American sycamore	Remove
240	Evergreen ash	Remove
241	American sycamore	Remove
242	Evergreen ash	Remove
243	Evergreen ash	Remove
244	Evergreen ash	Remove
245	Evergreen ash	Remove
246	Evergreen ash	Remove
247	Evergreen ash	Remove
248	Evergreen ash	Remove
249	Evergreen ash	Remove
250	Chinese pistache	Remove
251	Evergreen ash	Remove
252	Redflower gum	Remove
253	Redflower gum	Remove
254	Redflower gum	Remove
255	Glossy privet	Retain
256	Strawberry Tree	Remove
257	Redflower gum	Remove
258	Redflower gum	Remove
259	Redflower gum	Remove
260	Redflower gum	Remove
261	Southern magnolia	Retain
262	Goldenrain tree	Remove
263	Southern magnolia	Remove
264	Southern magnolia	Remove
265	Southern magnolia	Remove
266	Bradford pear	Remove
267	Chinese pistache	Remove
268	Chinese pistache	Remove
269	Coast redwood	Retain
270	Canary Island pine	Retain
271	Canary Island pine	Retain
272	Canary Island pine	Retain
273	Canary Island pine	Retain
274	Canary Island pine	Retain
275	Canary Island pine	Retain
276	Canary Island pine	Retain
277	Canary Island pine	Retain
278	Canary Island pine	Retain
279	Chinese pistache	Remove
280	Chinese pistache	Remove
281	Chinese pistache	Remove
282	Chinese pistache	Remove
283	Chinese pistache	Remove
284	Chinese pistache	Remove
285	Chinese pistache	Remove
286	Evergreen ash	Remove

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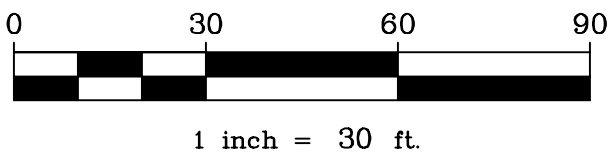
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TREE DISPOSITION PLAN
TM2.2



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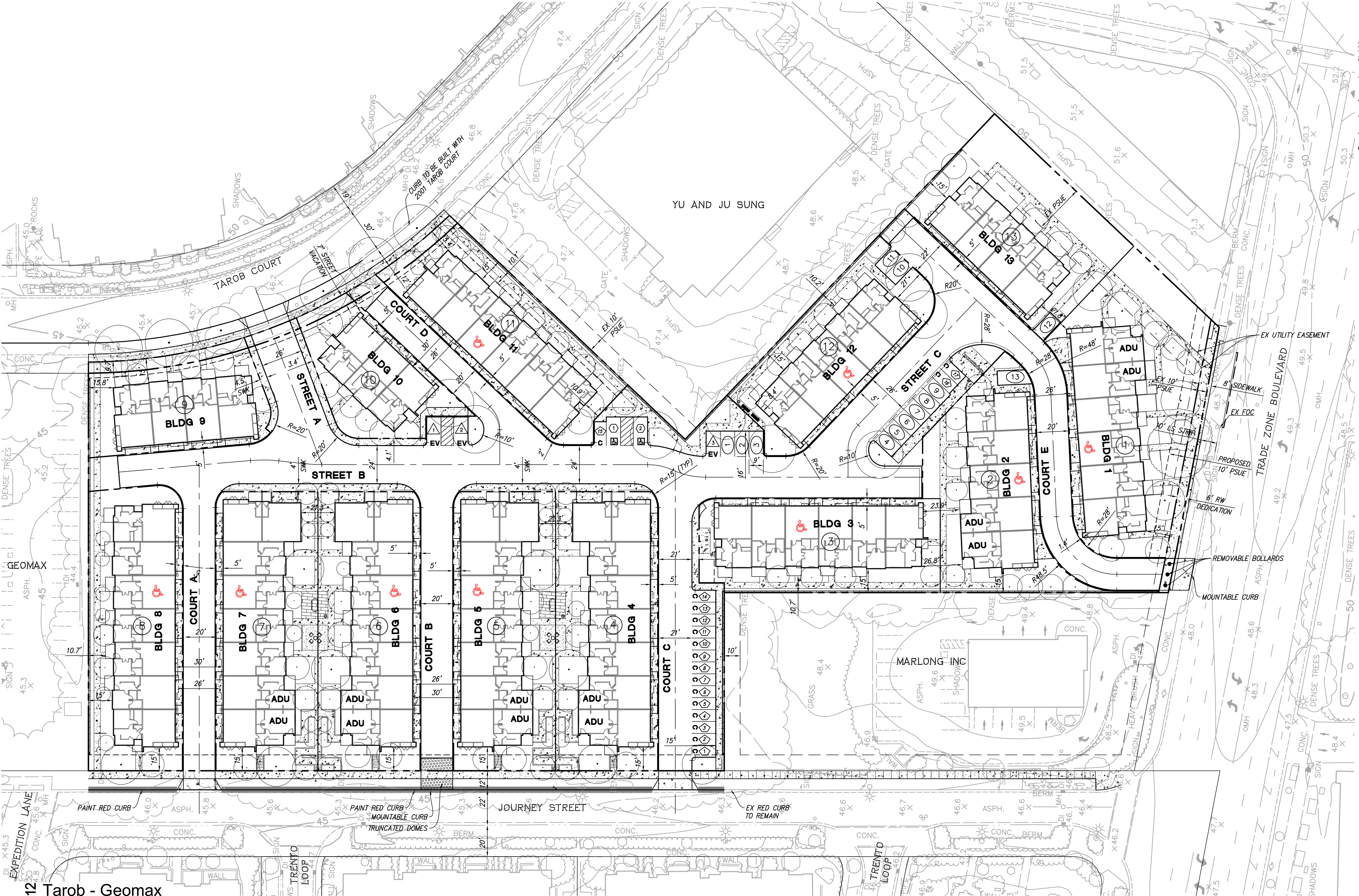


SITE DATA SUMMARY

1. CURRENT SITE AREA:	176,437 SF (4.1± ACRES)
2. SITE AREA AFTER STREET VACATION:	177,180 SF (4.1± ACRES)
3. NUMBER OF UNITS:	78
4. NET DENSITY:	22.0 UNITS/ACRE
5. PROPOSED NUMBER OF LOTS:	14
6. PARKING SUMMARY:	
a. GARAGE	156
b. ONSITE	
STANDARD	13
COMPACT	17
ADA	2
EV	3
TOTAL=	191
7. SITE COVERAGE CALCULATIONS:	
a. STREETS & COURTS	= 46,443 SF
b. BUILDING	= 68,223 SF
c. COMMON AREA	= 52,870 SF
d. PRIVATE OPEN SPACE	= 22,330 SF
TOTAL	= 189,866 SF

LEGEND

	LOT NUMBER
	ADA STALL
	STANDARD STALL
	COMPACT STALL
	EV STALL
	RED CURB
	ADA UNIT (9 TOTAL)

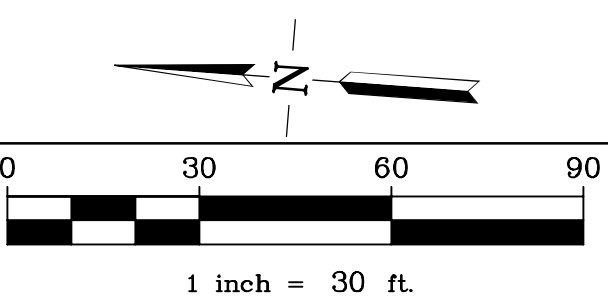


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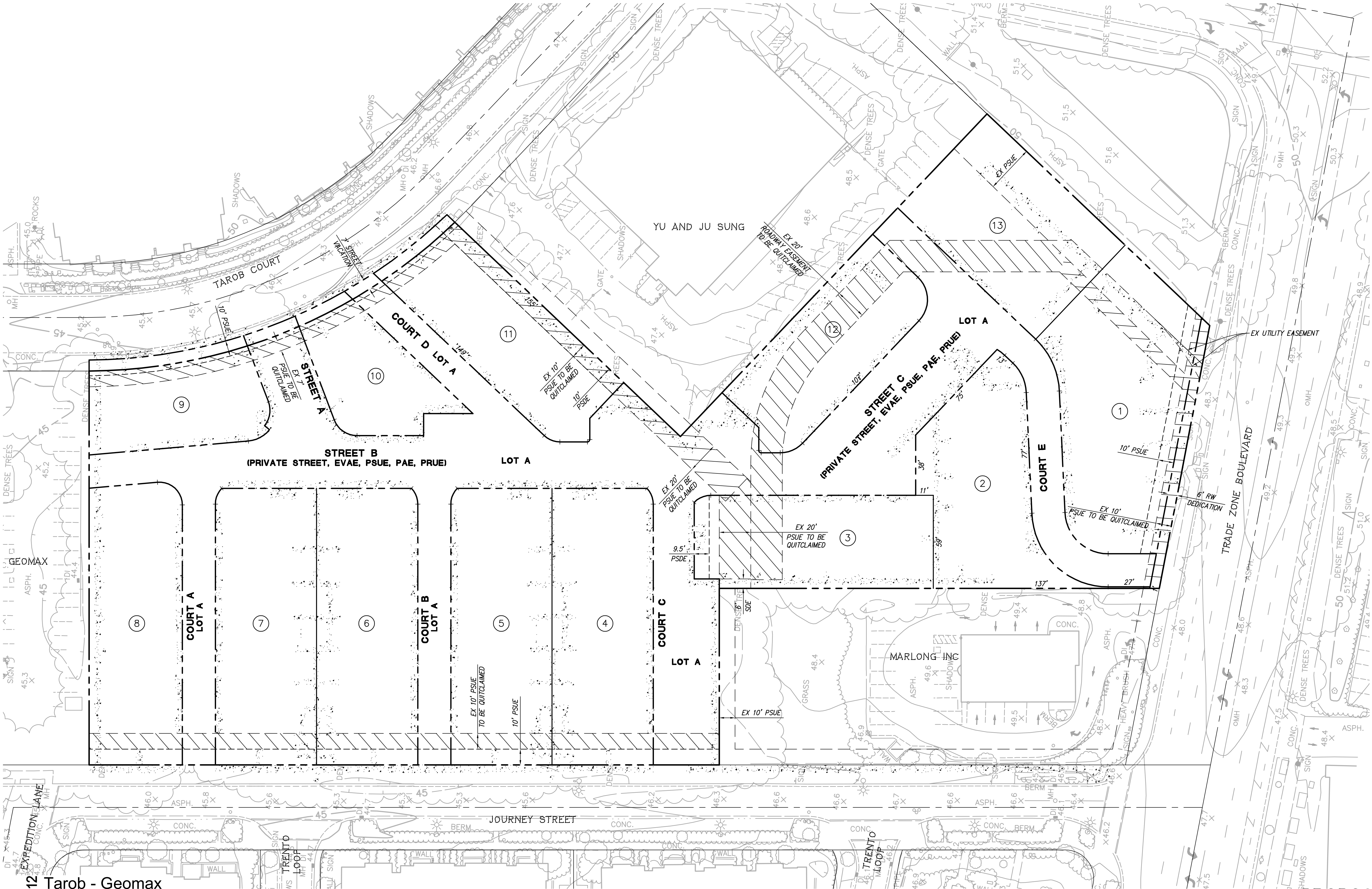
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SITE DEVELOPMENT PLAN
TM3.1



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LOT AREA TABLE	
LOT #	AREA (SF)
1	13,400
2	9,303
3	8,864
4	11,266
5	11,266
6	11,266
7	11,266
8	10,482
9	6,699
10	5,375
11	9,412
12	8,244
13	9,962
LOT A	50,375

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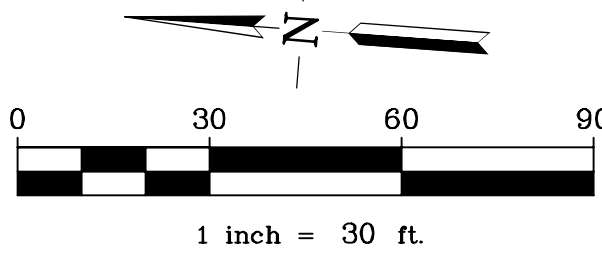
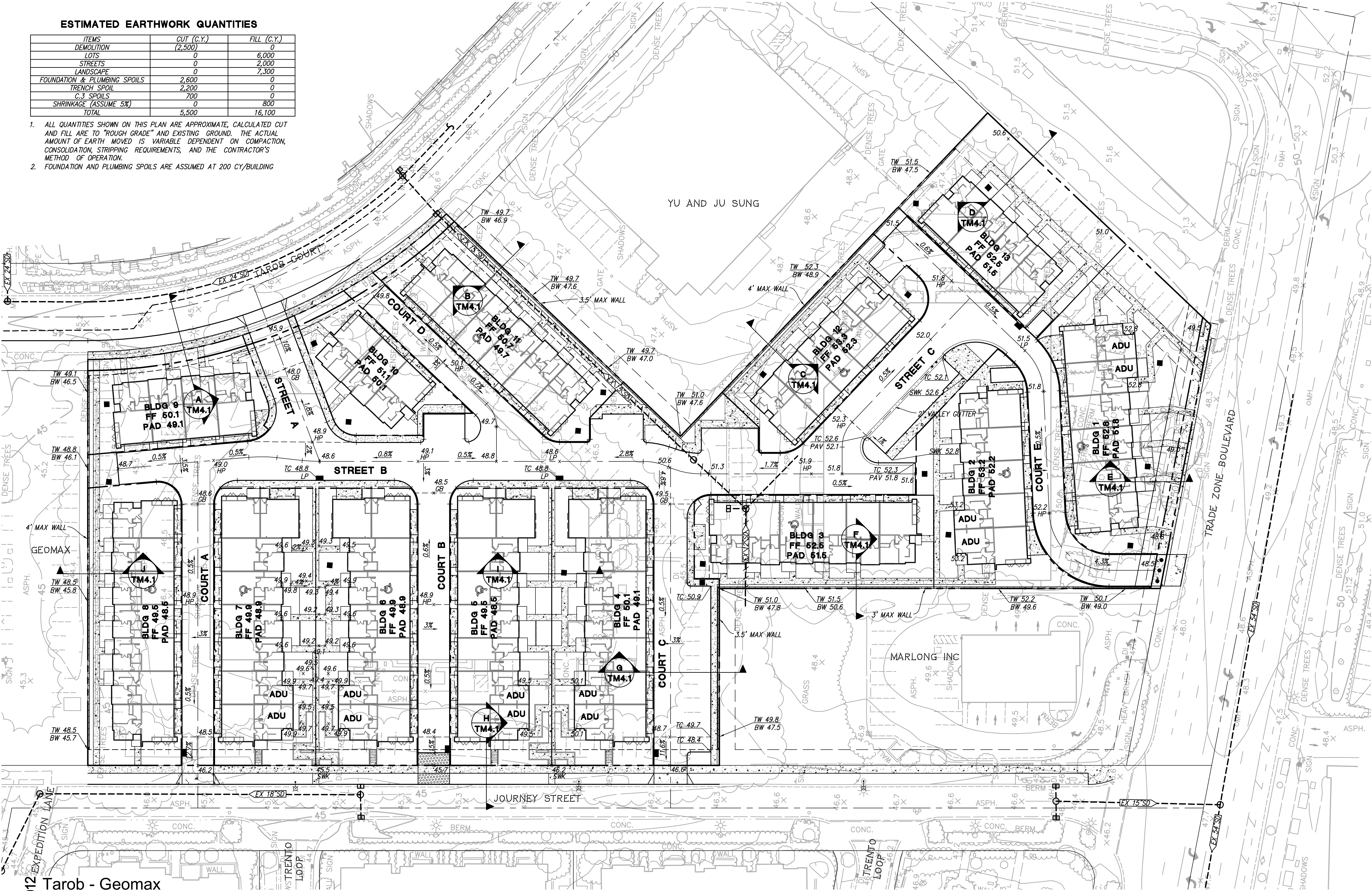
PROPOSED LOTTING PLAN
TM3.2

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ESTIMATED EARTHWORK QUANTITIES

ITEMS	CUT (C.Y.)	FILL (C.Y.)
DEMOLITION	(2,500)	0
LOTS	0	6,000
STREETS	0	2,000
LANDSCAPE	0	7,300
FOUNDATION & PLUMBING SPOILS	2,600	0
TRENCH SPOIL	2,200	0
C-3 SPOILS	700	0
SHRINKAGE (ASSUME 5%)	0	800
TOTAL	5,500	16,100

1. ALL QUANTITIES SHOWN ON THIS PLAN ARE APPROXIMATE, CALCULATED CUT AND FILL ARE TO "ROUGH GRADE" AND EXISTING GROUND. THE ACTUAL AMOUNT OF EARTH MOVED IS VARIABLE DEPENDENT ON COMPACTION, CONSOLIDATION, STRIPPING REQUIREMENTS, AND THE CONTRACTOR'S METHOD OF OPERATION.
2. FOUNDATION AND PLUMBING SPOILS ARE ASSUMED AT 200 CY/BUILDING



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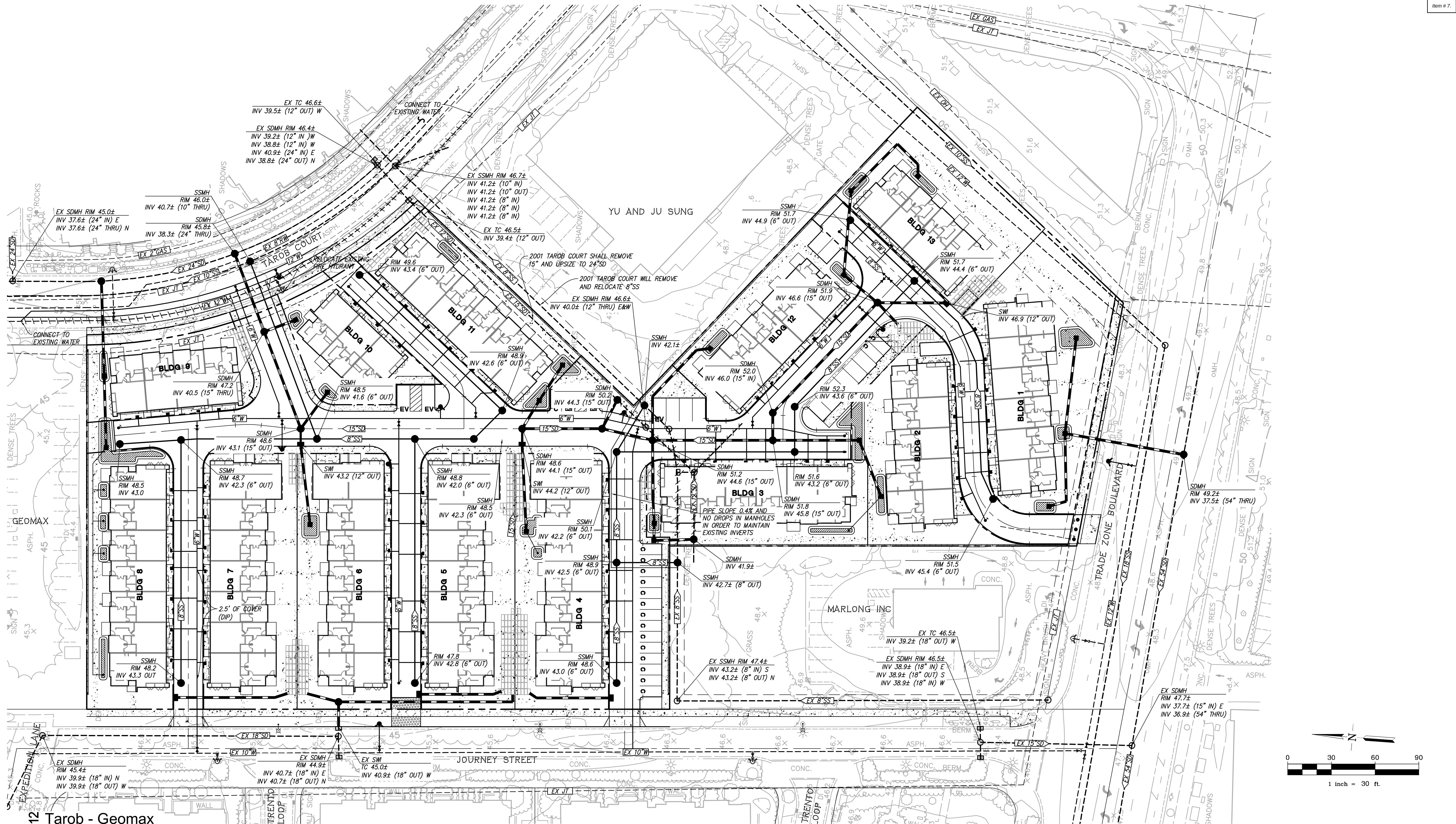
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PRELIMINARY GRADING AND DRAINAGE PLAN
TM4.1



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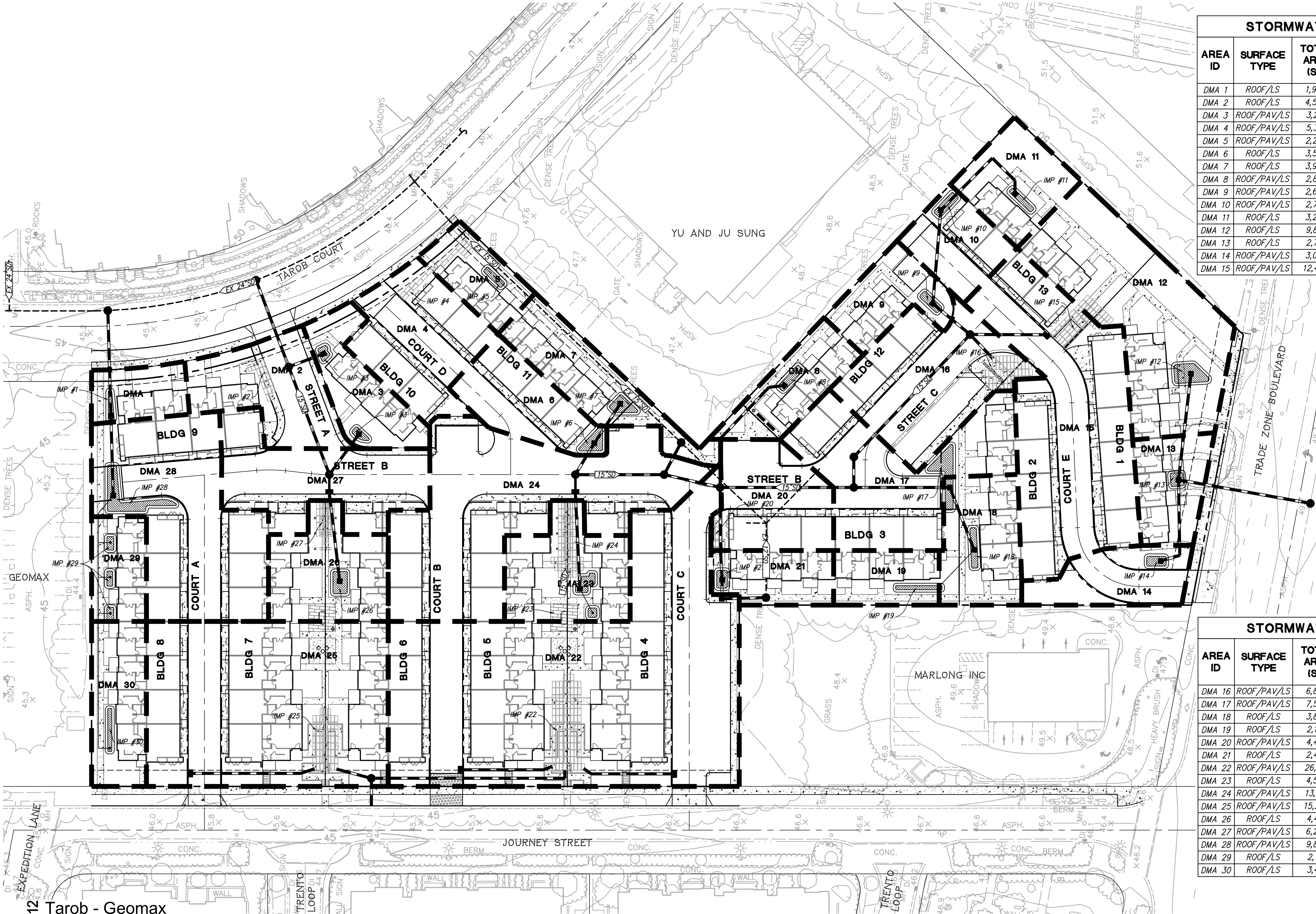


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PRELIMINARY UTILITY PLAN
TM5.1

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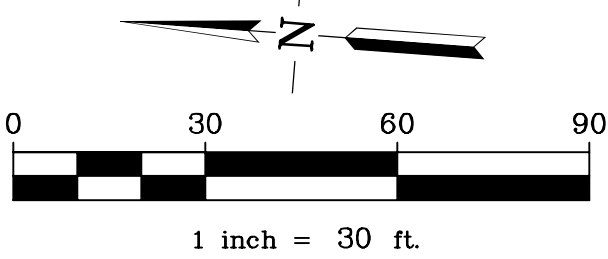


STORMWATER TREATMENT CALCULATIONS						
AREA ID	SURFACE TYPE	TOTAL AREA (SF)	IMPERVIOUS AREA (SF)	EFFECTIVE LANDSCAPE AREA (SF)	TREATMENT AREA REQUIRED (SF)	TREATMENT AREA PROVIDED (SF)
DMA 1	ROOF/LS	1,909	1,015	89	44	53
DMA 2	ROOF/LS	4,557	3,568	99	147	152
DMA 3	ROOF/PAV/LS	3,241	1,474	177	66	93
DMA 4	ROOF/PAV/LS	5,391	4,222	117	174	176
DMA 5	ROOF/PAV/LS	2,265	1,326	94	57	59
DMA 6	ROOF/LS	3,553	3,082	47	125	135
DMA 7	ROOF/LS	3,973	2,614	136	110	116
DMA 8	ROOF/PAV/LS	2,896	1,984	91	83	89
DMA 9	ROOF/PAV/LS	2,683	1,489	119	64	74
DMA 10	ROOF/PAV/LS	2,717	2,088	63	86	92
DMA 11	ROOF/LS	3,275	1,140	214	54	63
DMA 12	ROOF/LS	9,814	4,262	555	193	207
DMA 13	ROOF/LS	2,771	1,388	138	61	65
DMA 14	ROOF/PAV/LS	3,045	1,447	160	64	71
DMA 15	ROOF/PAV/LS	12,488	11,216	127	454	463

- NOTES:
- THE STORMWATER TREATMENT TABLE CALCULATIONS ARE BASED ON THE SANTA CLARA COUNTYWIDE CLEAN WATER PROGRAM, C.3 STORMWATER TECHNICAL GUIDANCE, DATED JANUARY 1, 2015, AND THE FOLLOWING CRITERIA:
 - EFFECTIVE IMPERVIOUS AREA = IMPERVIOUS AREA + 10% OF PERVIOUS AREA
 - 0.2 INCHES/HOUR RAINFALL INTENSITY ON 100% OF EFFECTIVE IMPERVIOUS AREA.
 - SOIL FOR TREATMENT MEDIUM WITH A 5 INCHES/HOUR INFILTRATION RATE.
 - SIZING FACTOR OF 0.04 NOTED ABOVE IS CALCULATED BASED ON THE FOLLOWING CRITERIA:
 - SIZING FACTOR=(0.2 IN/HR)/(5 IN/HR)=0.04

LEGEND

- DRAINAGE MANAGEMENT AREA (DMA)
- [Pattern] BIO-RETENTION AREA



STORMWATER TREATMENT CALCULATIONS						
AREA ID	SURFACE TYPE	TOTAL AREA (SF)	IMPERVIOUS AREA (SF)	EFFECTIVE LANDSCAPE AREA (SF)	TREATMENT AREA REQUIRED (SF)	TREATMENT AREA PROVIDED (SF)
DMA 16	ROOF/PAV/LS	6,868	6,113	76	248	317
DMA 17	ROOF/PAV/LS	7,526	5,953	157	244	270
DMA 18	ROOF/LS	3,858	2,208	165	95	99
DMA 19	ROOF/LS	2,196	1,604	59	67	71
DMA 20	ROOF/PAV/LS	4,417	3,911	51	158	160
DMA 21	ROOF/LS	2,435	1,582	85	67	72
DMA 22	ROOF/PAV/LS	26,251	21,308	494	872	872
DMA 23	ROOF/LS	4,575	2,877	170	122	128
DMA 24	ROOF/PAV/LS	13,121	12,181	94	491	496
DMA 25	ROOF/PAV/LS	15,206	11,265	394	466	472
DMA 26	ROOF/LS	4,416	2,715	170	115	120
DMA 27	ROOF/PAV/LS	6,205	4,921	128	202	208
DMA 28	ROOF/PAV/LS	9,886	8,343	154	340	350
DMA 29	ROOF/LS	2,191	1,511	68	63	66
DMA 30	ROOF/LS	3,451	2,394	106	100	100

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PRELIMINARY STORMWATER TREATMENT PLAN
TM6.1

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NOT TO SCALE		NOT TO SCALE		NOT TO SCALE		NOT TO SCALE	
1	BIO-RETENTION AT LANDSCAPE AREAS	2	BIO-RETENTION AREA NEXT TO STREET	3	DEEPEENED BUILDING FOUNDATION ADJACENT TO BIO-RETENTION	4	BIO-RETENTION AREA NEXT TO STREET
						NOT TO SCALE	
NOT TO SCALE				NOT TO SCALE		NOT TO SCALE	
5	TYPICAL SILVA CELL DETAIL	6	SILVA CELL CLEANOUT DETAIL	7			
NOT TO SCALE				NOT TO SCALE		NOT TO SCALE	
9		10		11			

KEY PLAN

- (A) 2X SILVA CELL SYSTEM BY DEEP ROOT (DECK, BASE, AND POSTS)

(B) CONCRETE SIDEWALK

(C) PLANTING SOIL PER LANDSCAPE ARCHITECT

(D) 2" DRAIN ROCK

(E) BIO-RETENTION TREATMENT SOILS (BSM) MIX PER ATTACHMENT "L", MUNICIPAL REGIONAL STORMWATER PERMIT (MRP) PROVISION C.3.c.i.(1)(b)(vi)

(F) CLASS 2 PERMEABLE MATERIAL PER CALTRANS SPECIFICATIONS, SECTION 68, COMPACTED TO 95%.

(G) 6" SDR SOLID PVC OVERFLOW RISER

(H) MIRAFI HP570 – GEOTEXTILE FABRIC 18" MIN OVERLAP & EXTEND GEOTEXTILE TO EDGE OF EXCAVATION.

(I) 20MIL STEGO WRAP – PLACED AROUND SIDES AND BOTTOM OF CLASS 2 PERMEABLE MATERIAL AND SIDEWALL OF SILVA CELL
- (J) MIRACRID 2XT – GEOGRID TO LINE PERIMETER OF SYSTEM WITH 6" TOE (OUTWARD FROM BASE) AND 12" EXCESS (OVER TOP OF DECK).

(K) 6" SDR-35 PVC PERFORATED DISTRIBUTION PIPE.

(L) 6" SDR-35 PVC PERFORATED COLLECTOR PIPE.

(M) 6" SDR-35 SOLID PVC PIPE INTO SILVA CELL SYSTEM.

(N) SILVA CELL BASE

(O) CABLE TIE, ATTACHING GEOGRID TO SILVA CELL AT BASE OF UPPER LEG FLARE.

(P) PIN, PER SILVA CELL SPECIFICATIONS.

(Q) NATIVE BACKFILL, COMPACTED TO SOILS ENGINEER RECOMMENDATION.

(R) 6" CURB AND GUTTER

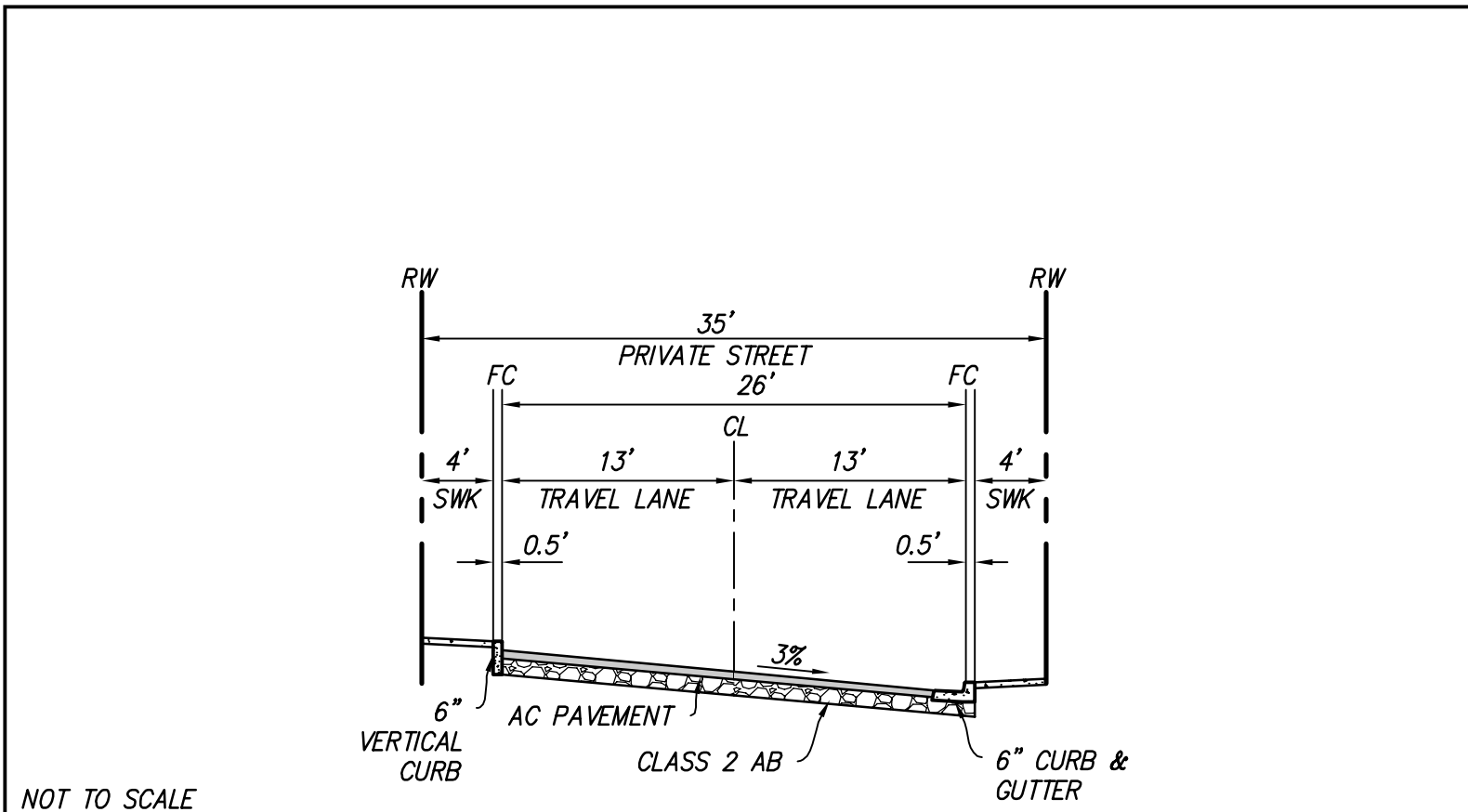
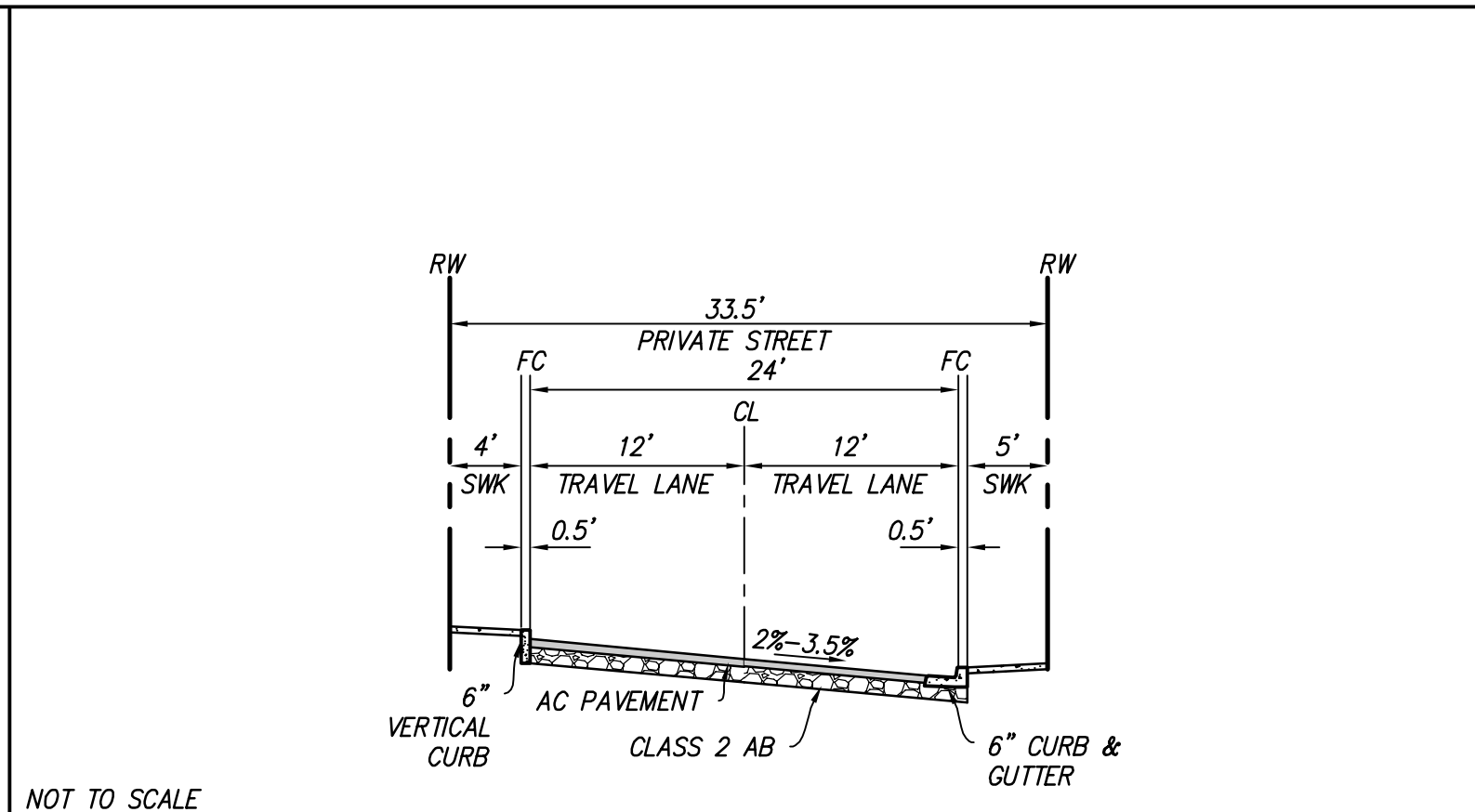
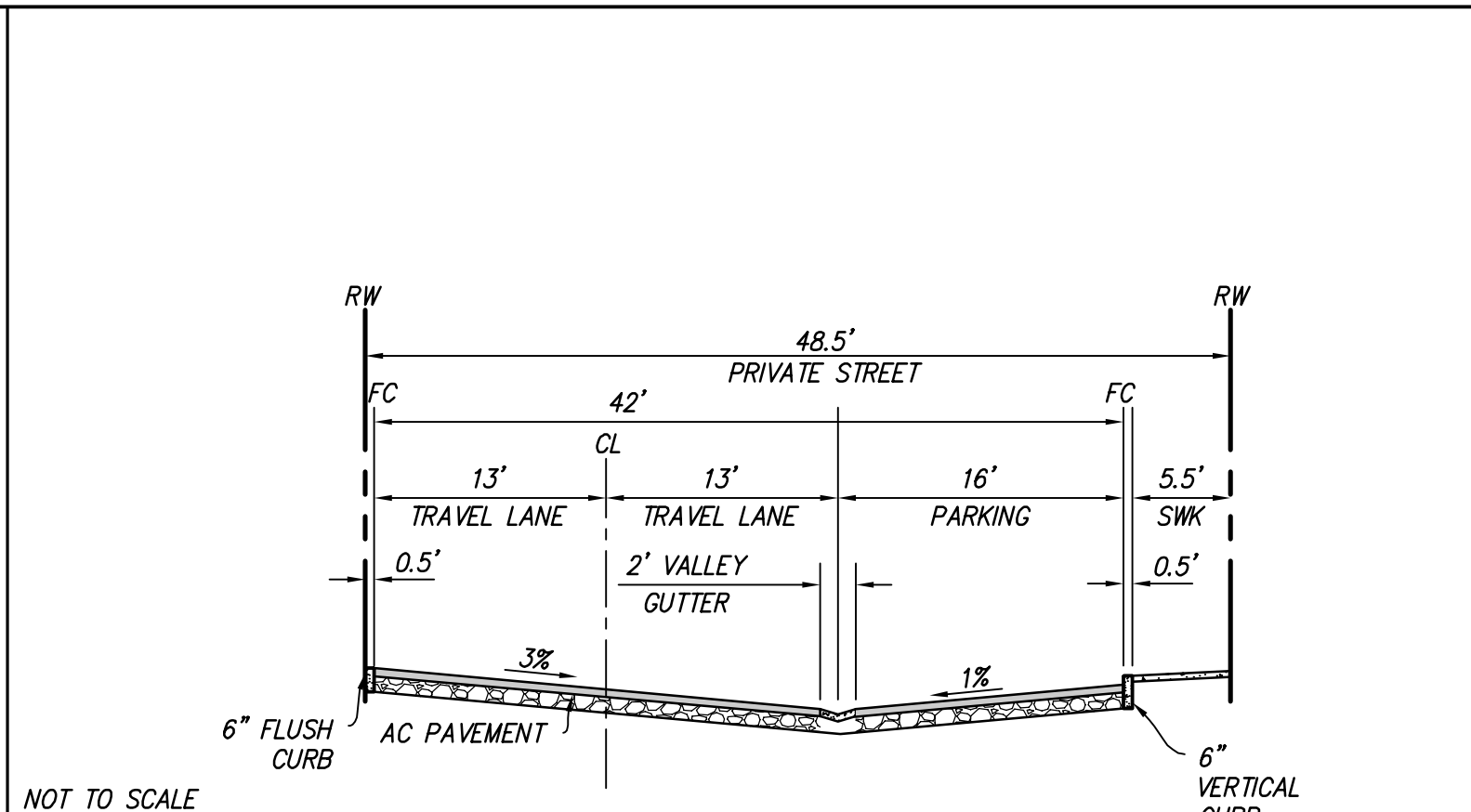
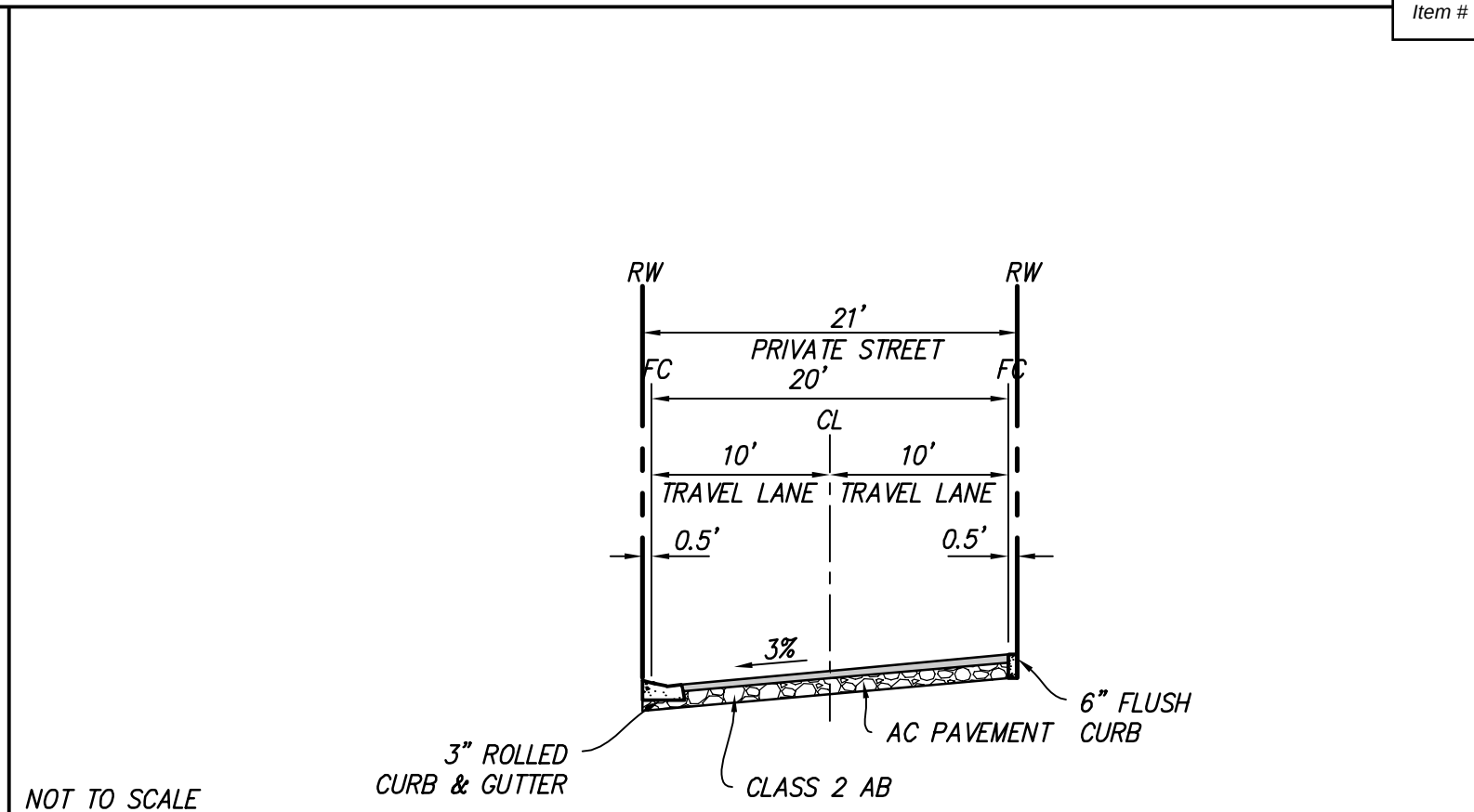
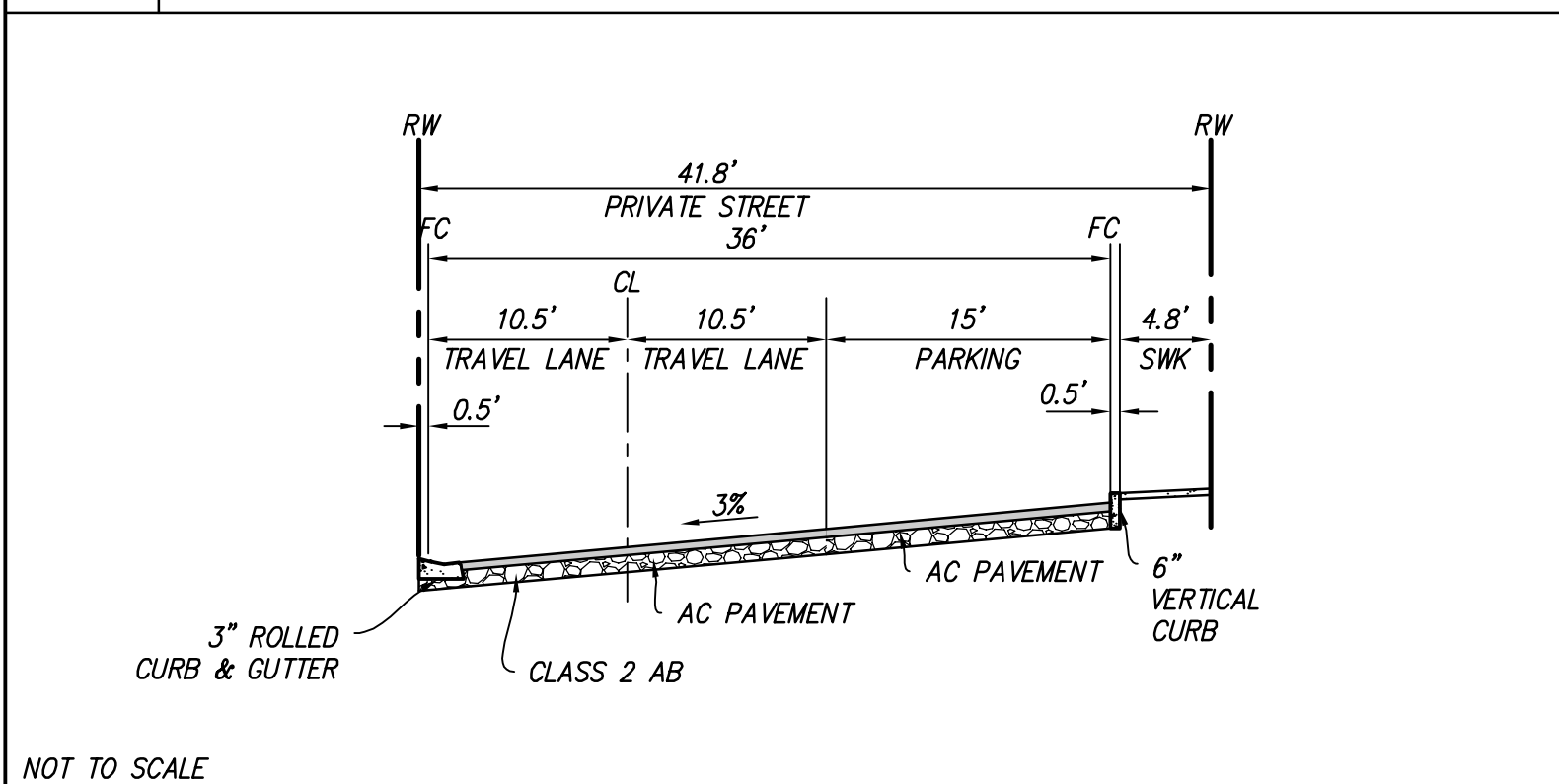
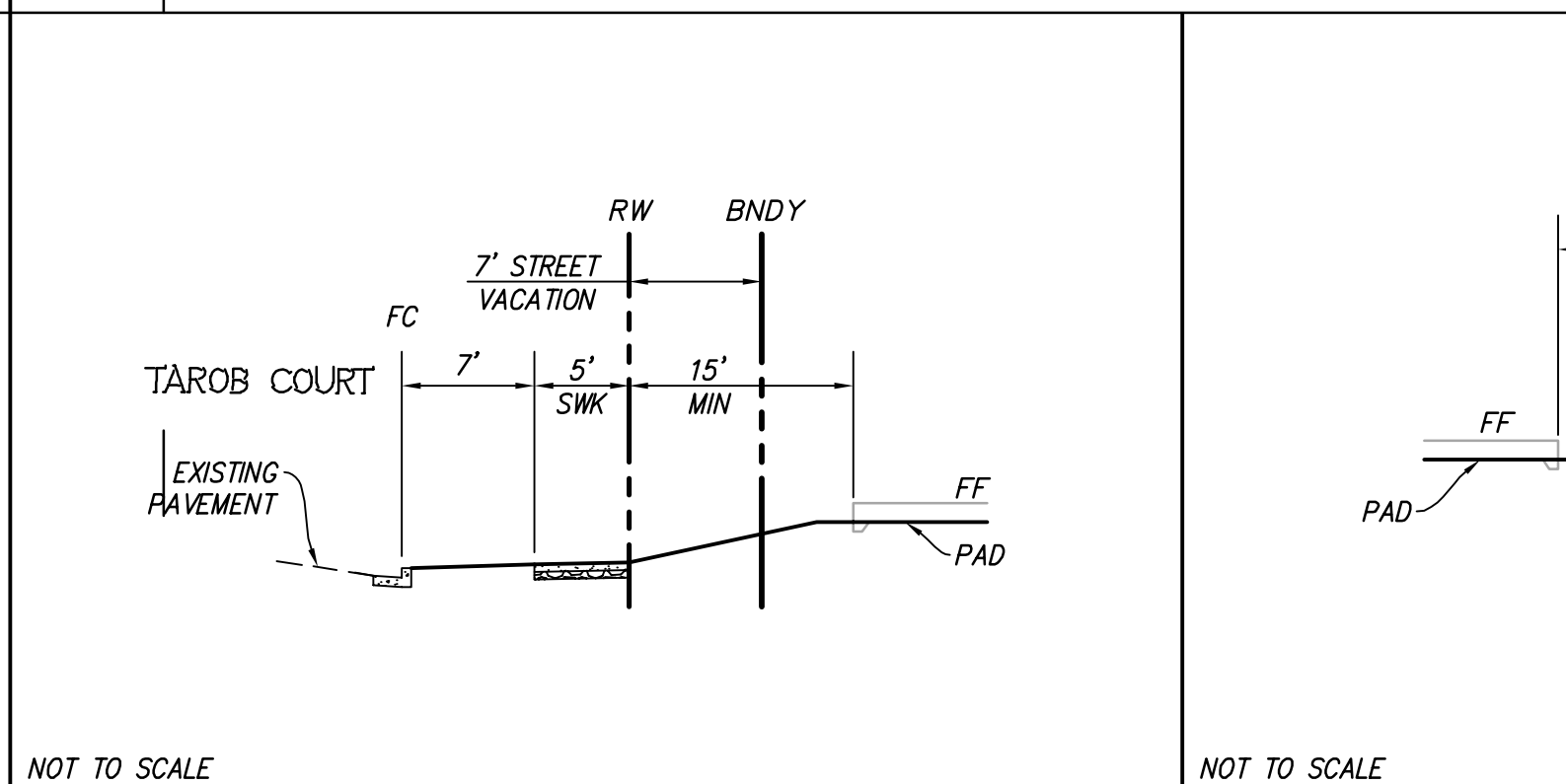
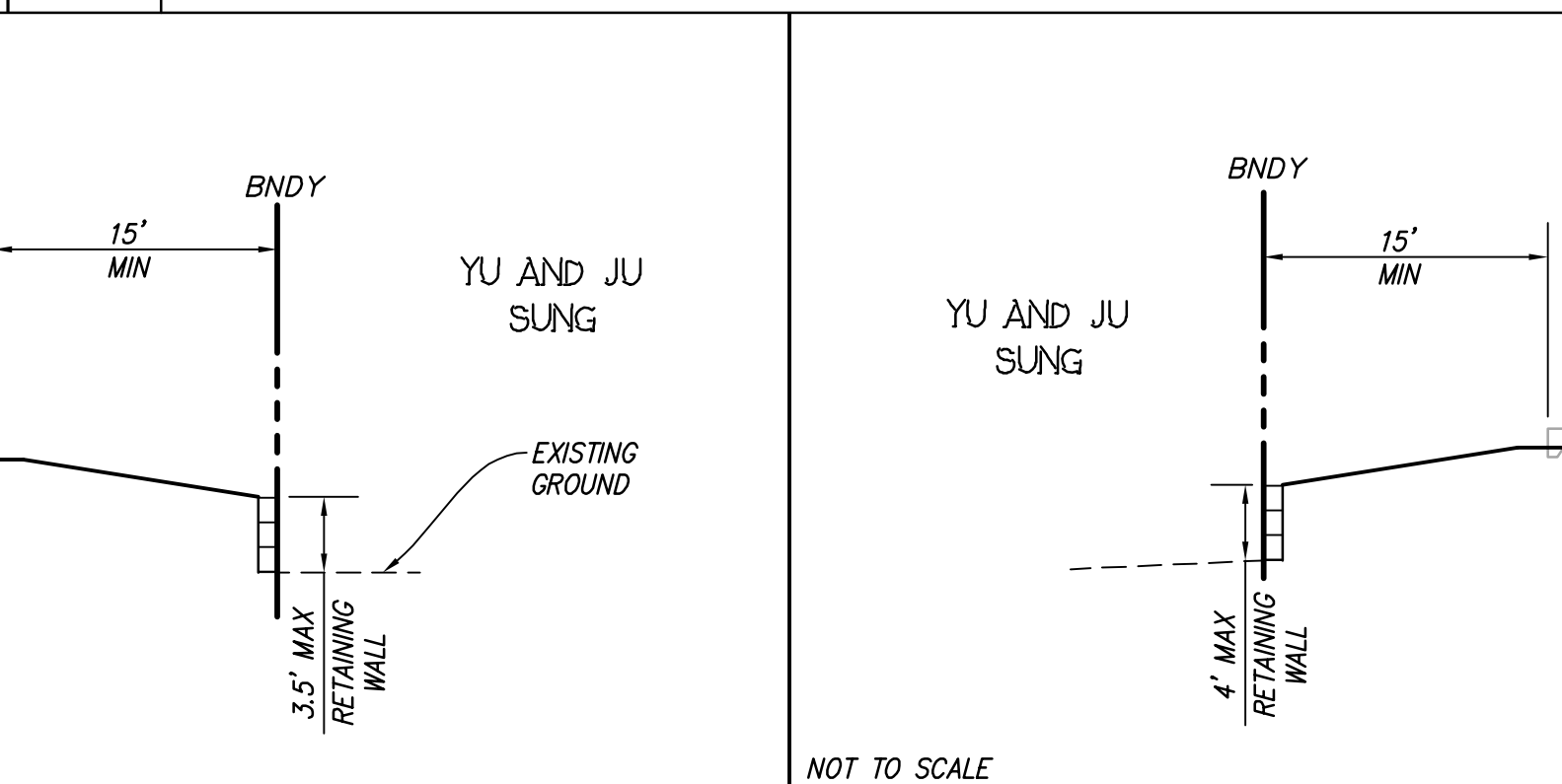
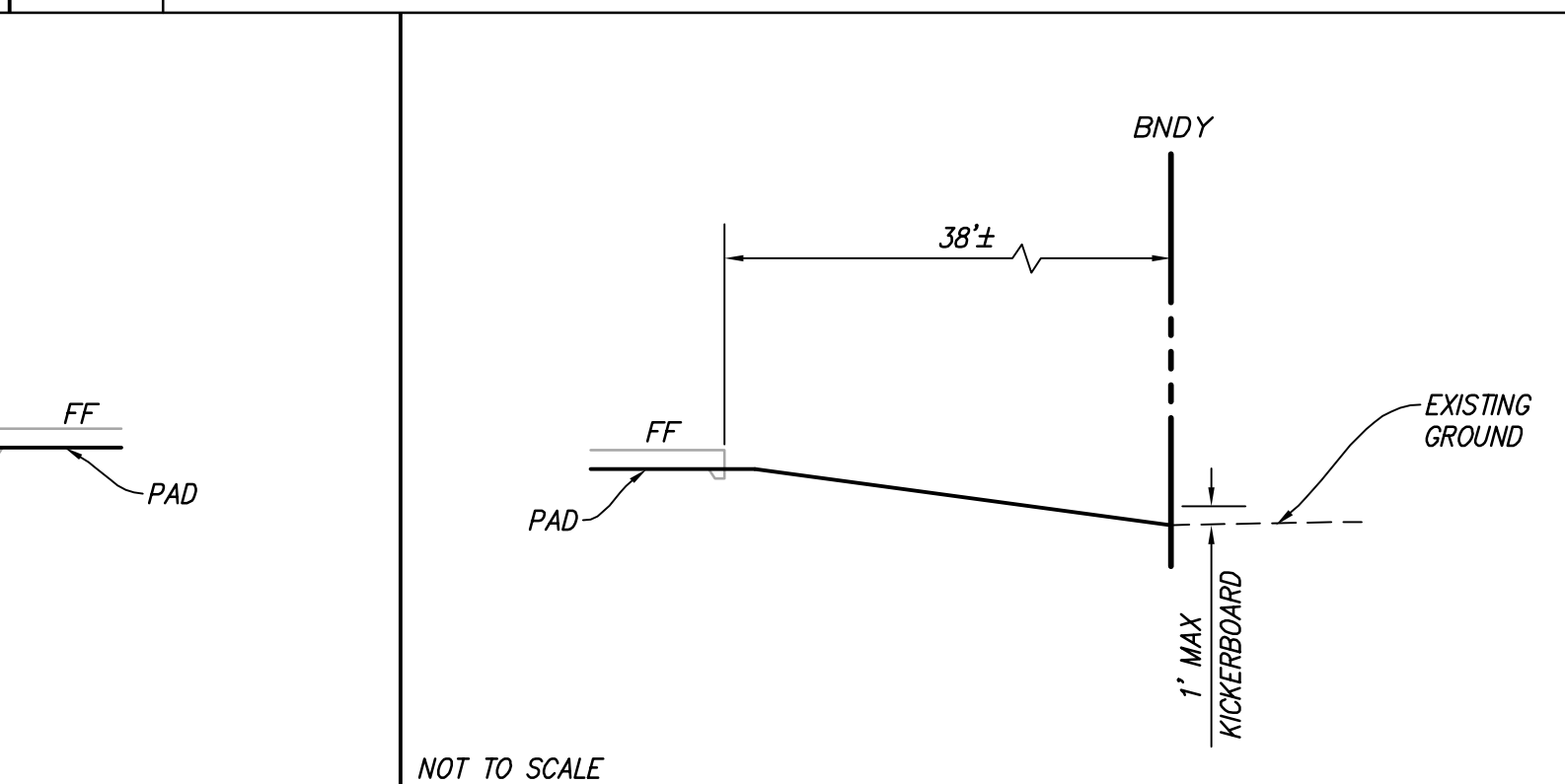
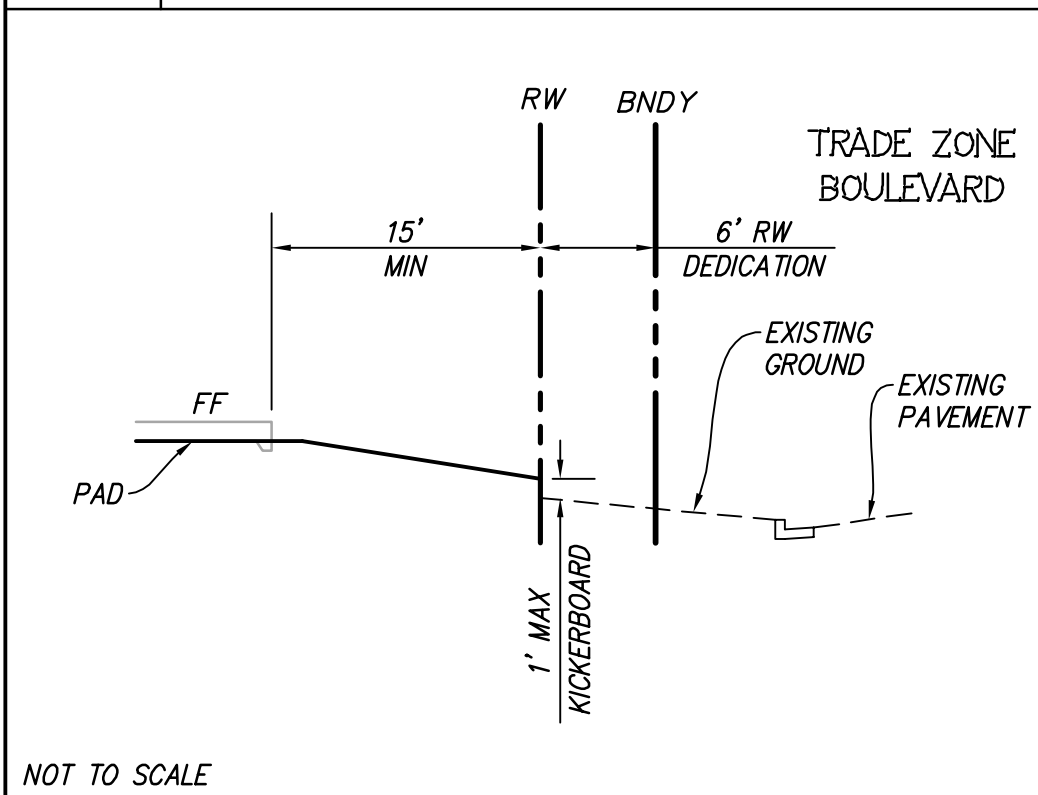
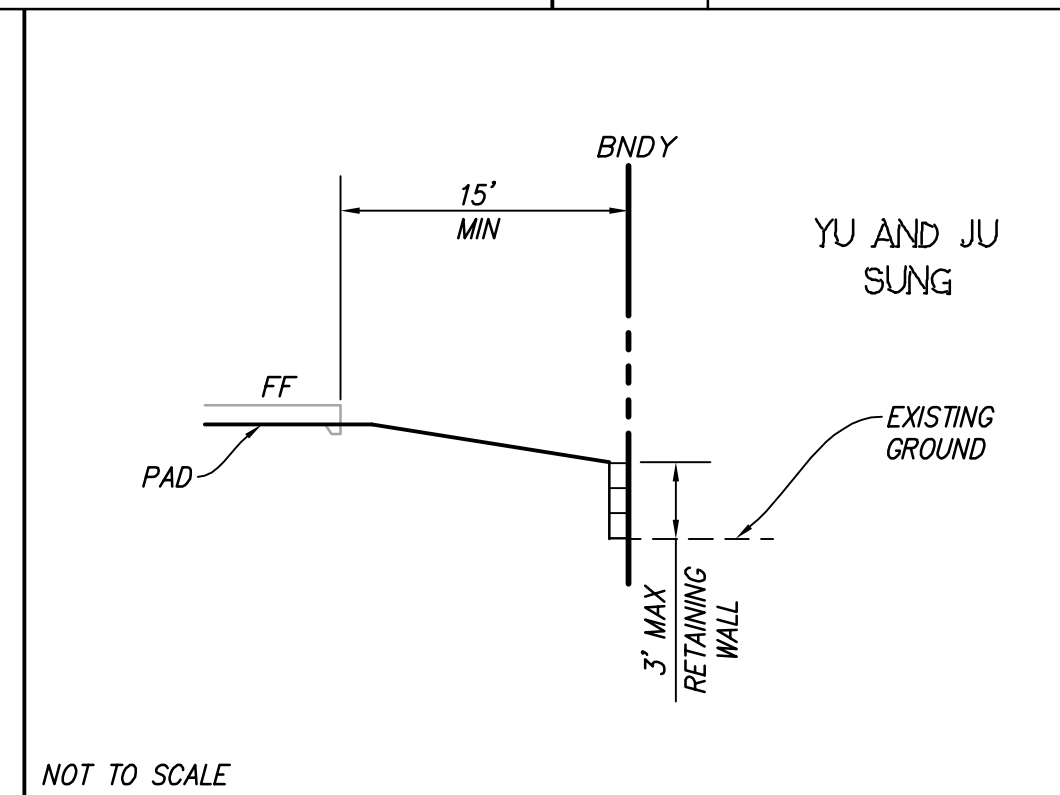
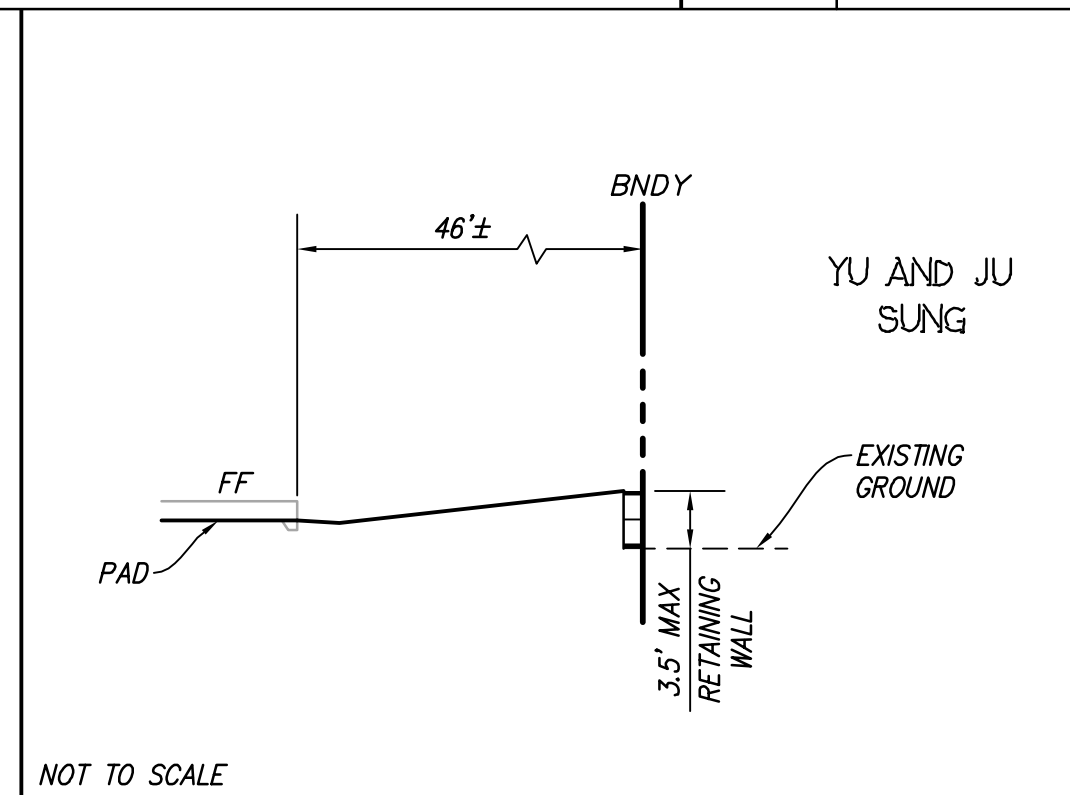
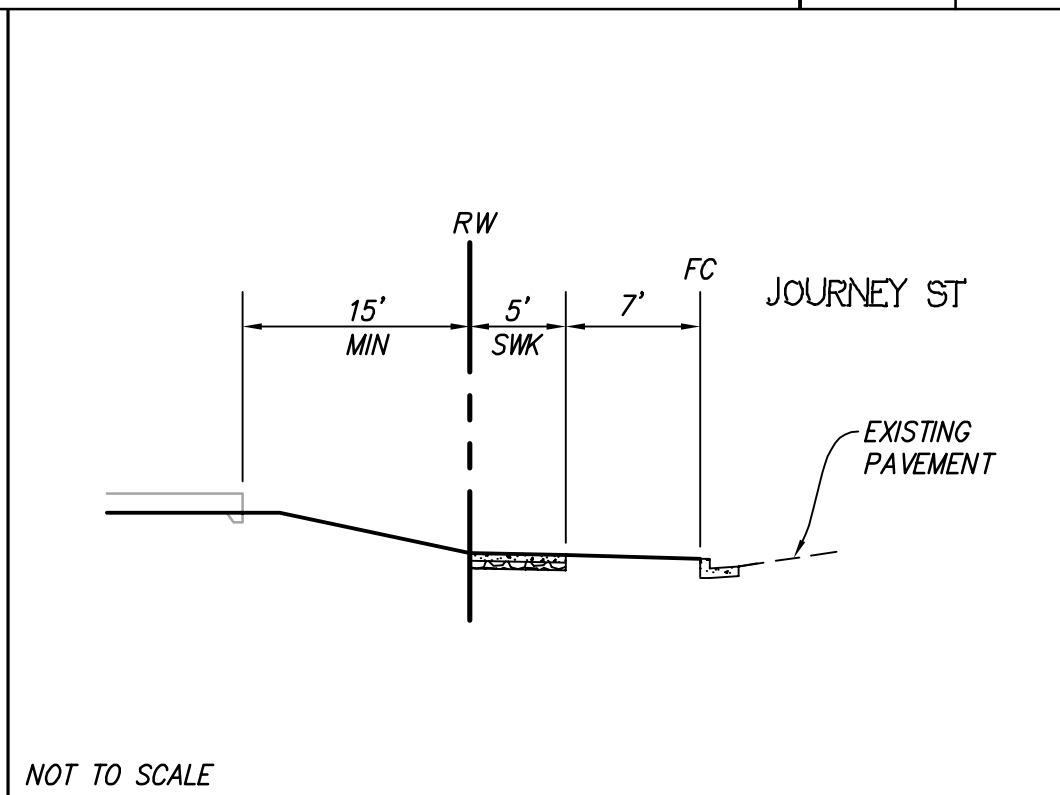
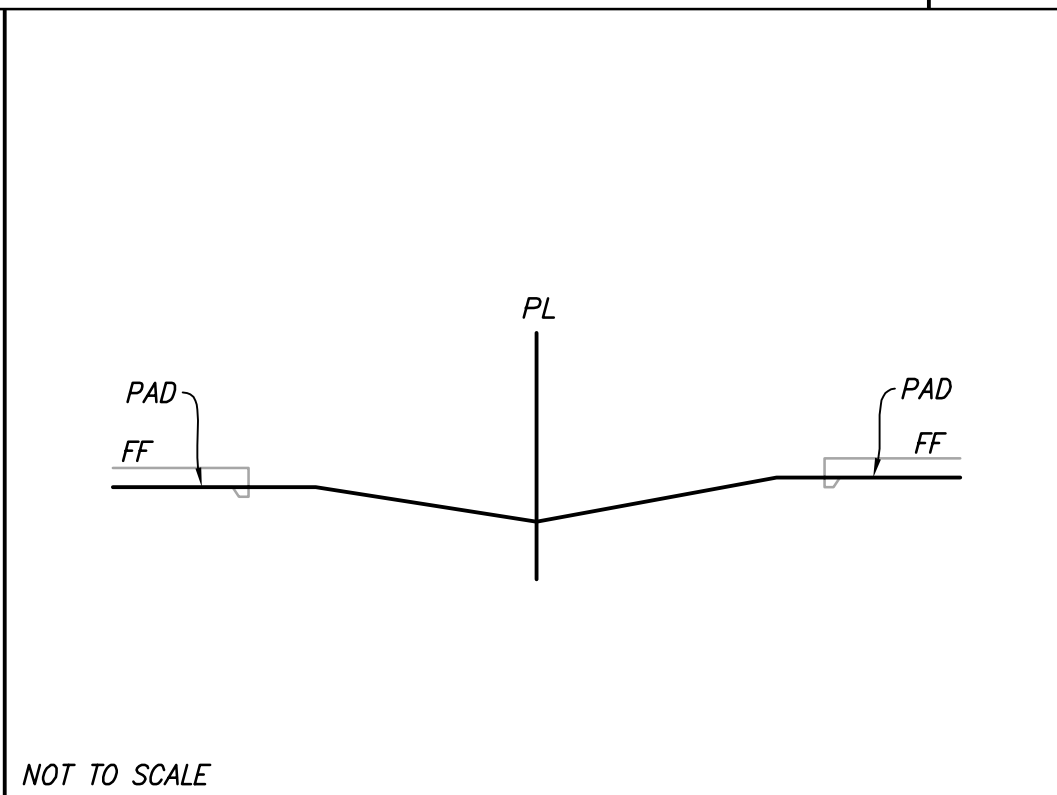
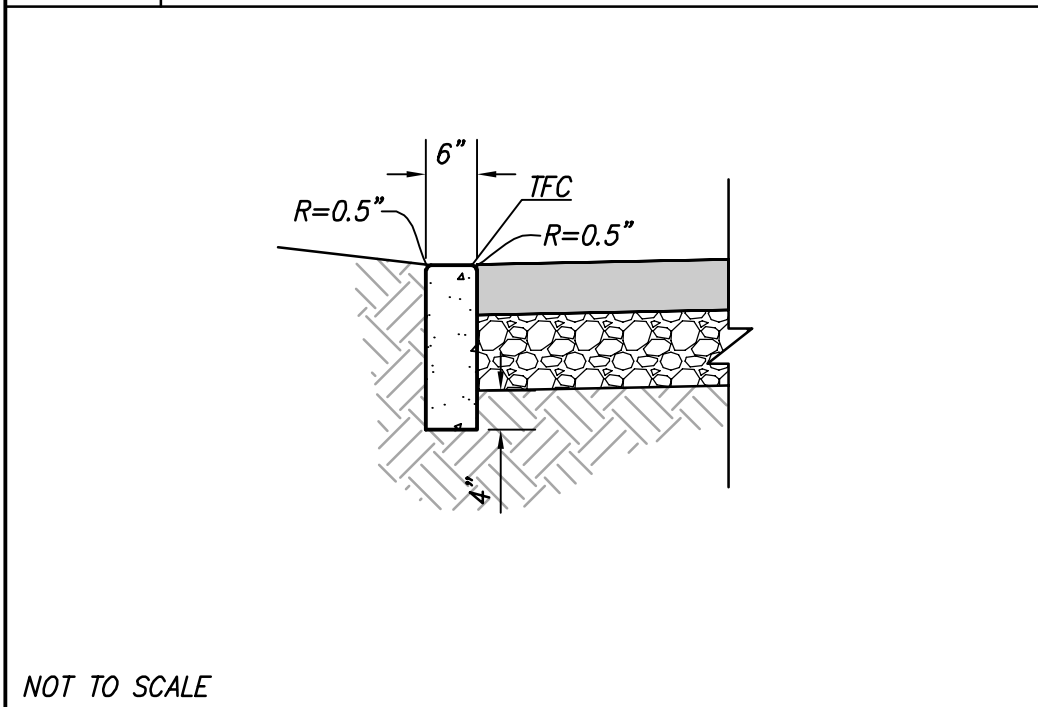
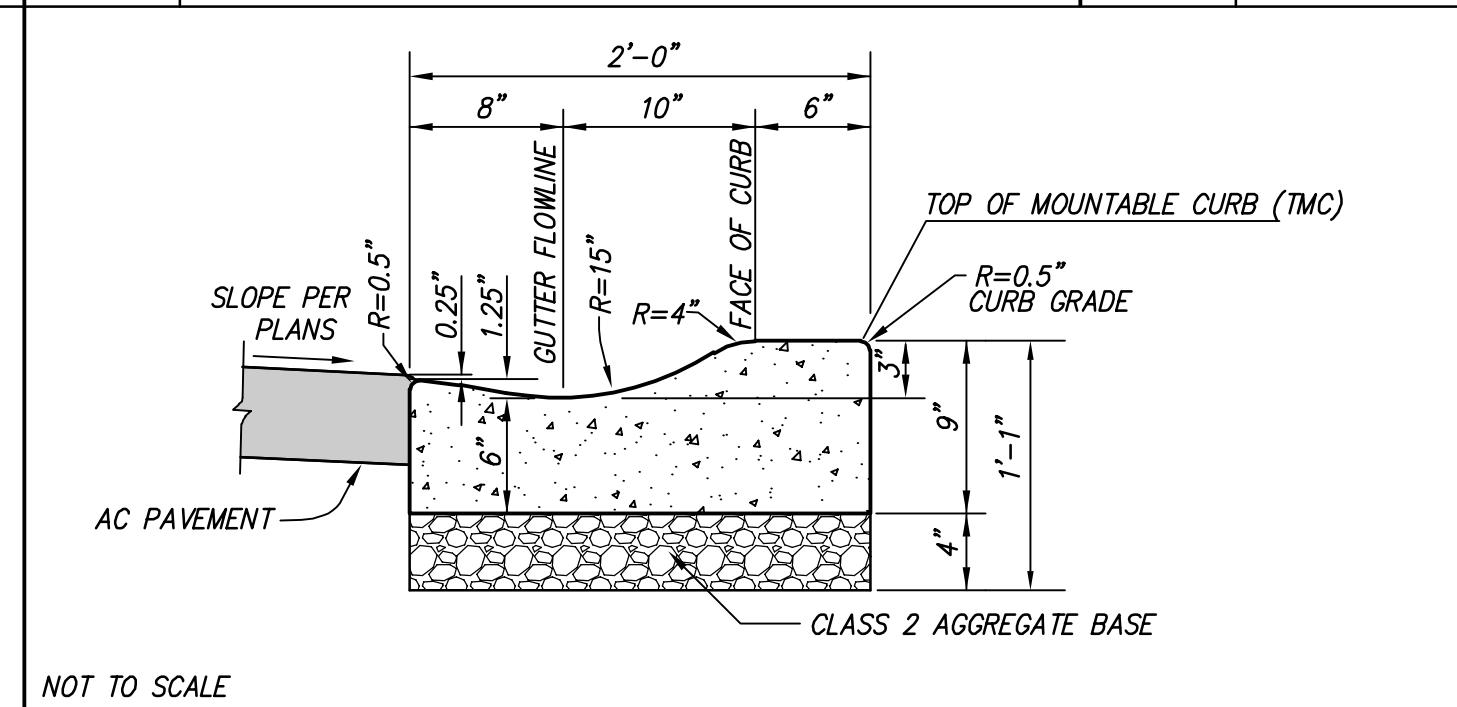
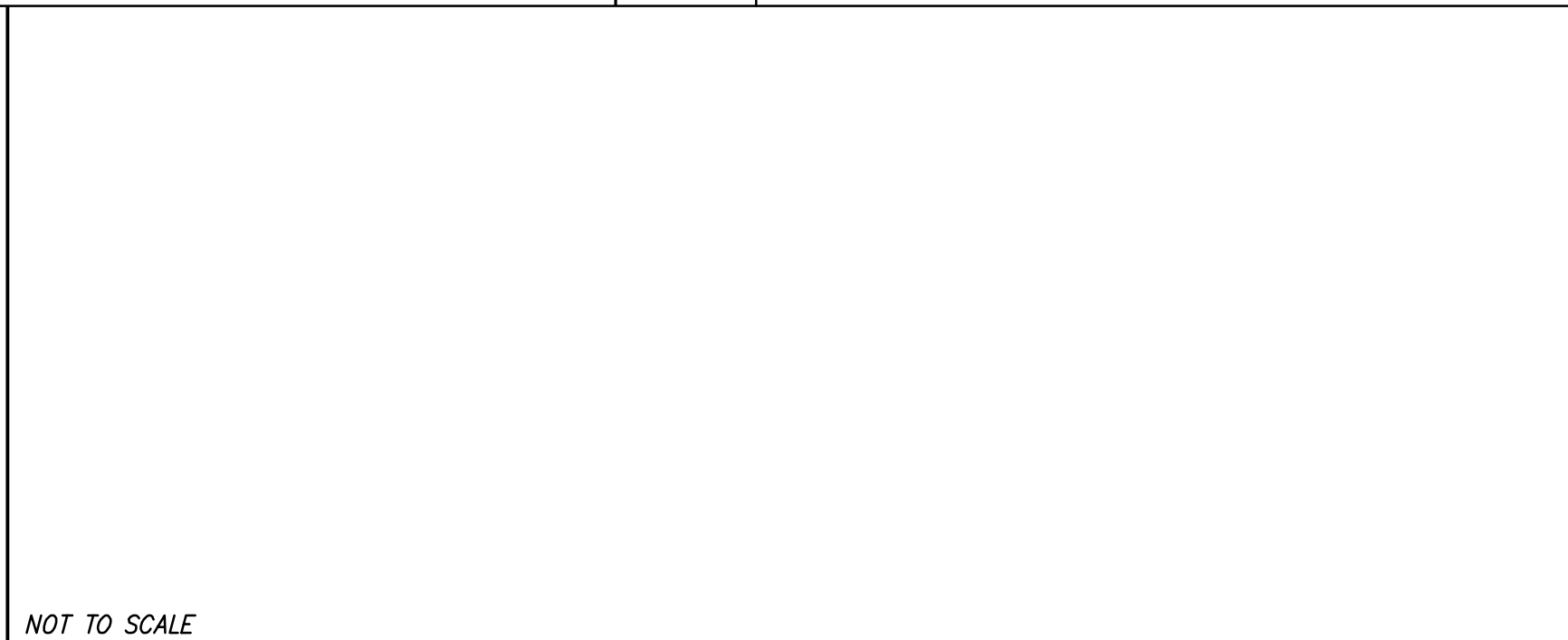
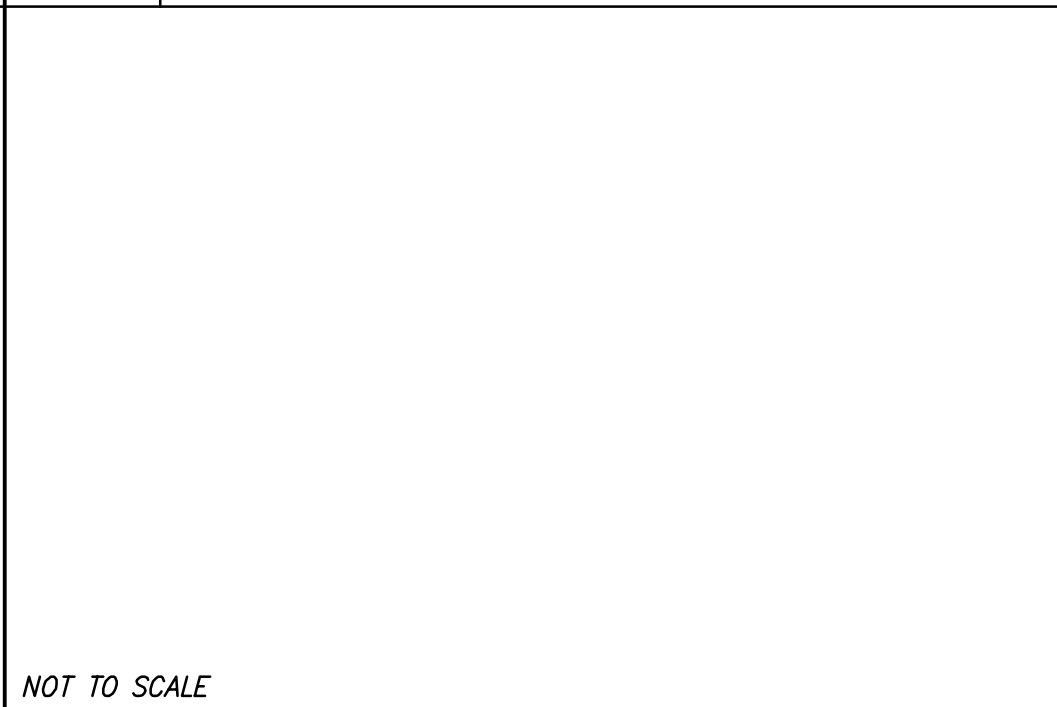
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TYPICAL STORMWATER
DETAILS
TM6.2

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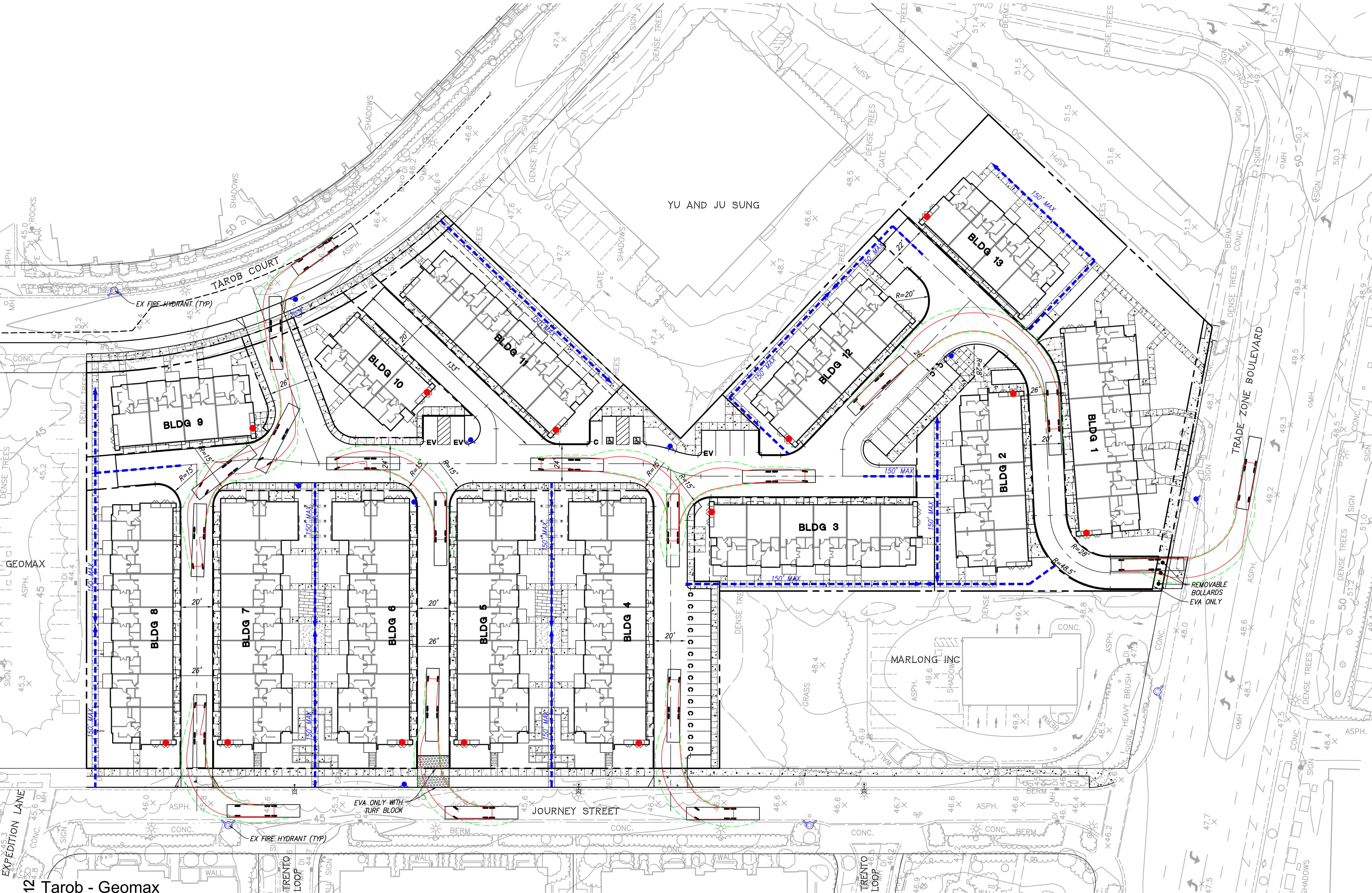
											
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5	COURT C	6	SECTION A	7	SECTION B	8	SECTION C	9	SECTION D		
											
10	SECTION E	11	SECTION F	12	SECTION G	13	SECTION H	14	SECTION I	15	SECTION J
											
16	6" FLUSH CURB	17	3" MOUNTABLE CURB	18		19		20			

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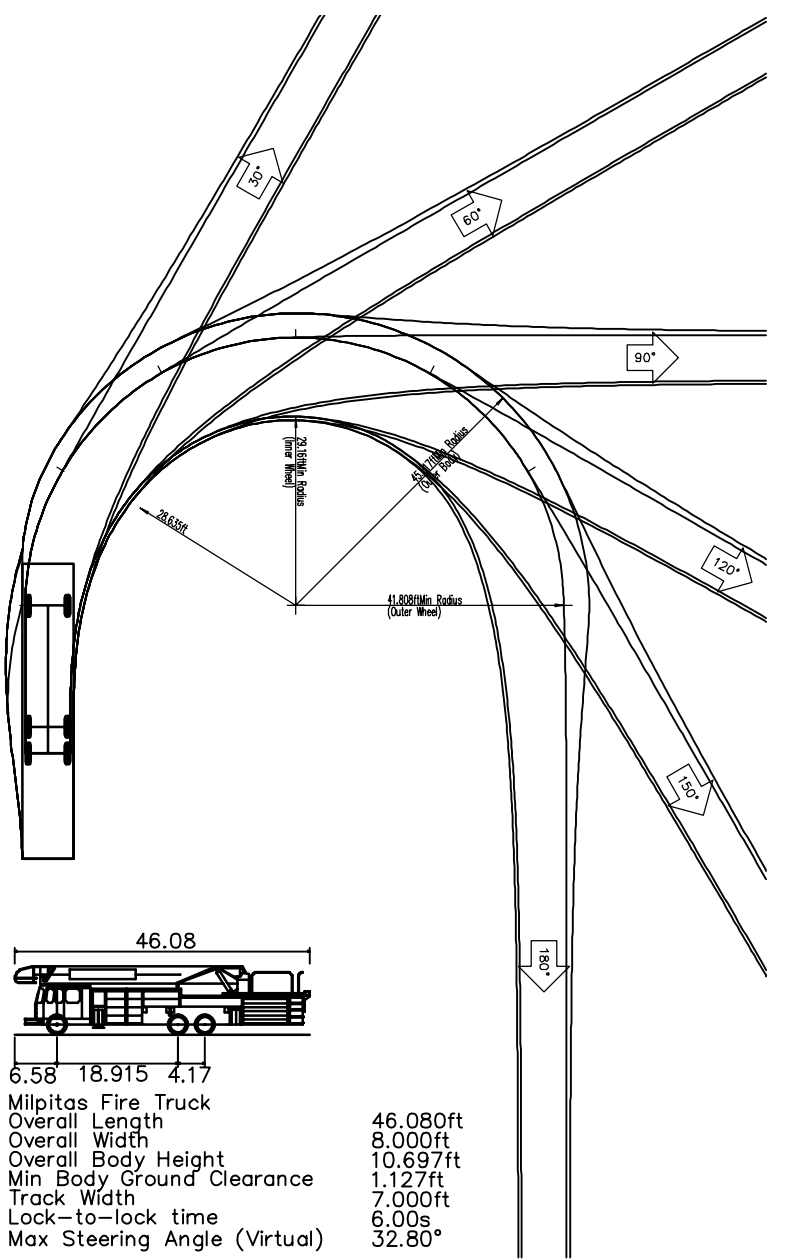
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TYPICAL SECTIONS & DETAILS
TM7.1

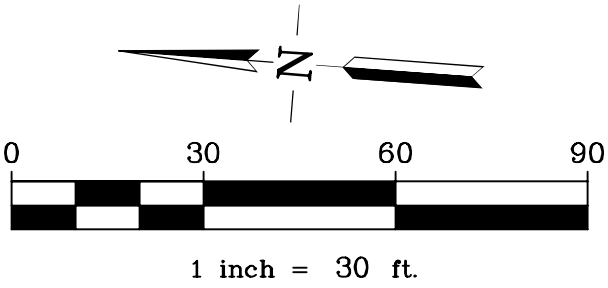
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- LEGEND**
- FIRE HYDRANT
 - EXISTING FIRE HYDRANT
 - WHEEL PATH
 - VEHICLE ENVELOPE
 - HOSE PULL
 - HOSE PULL



FIRE TRUCK TURNING TEMPLATE
1"=30'

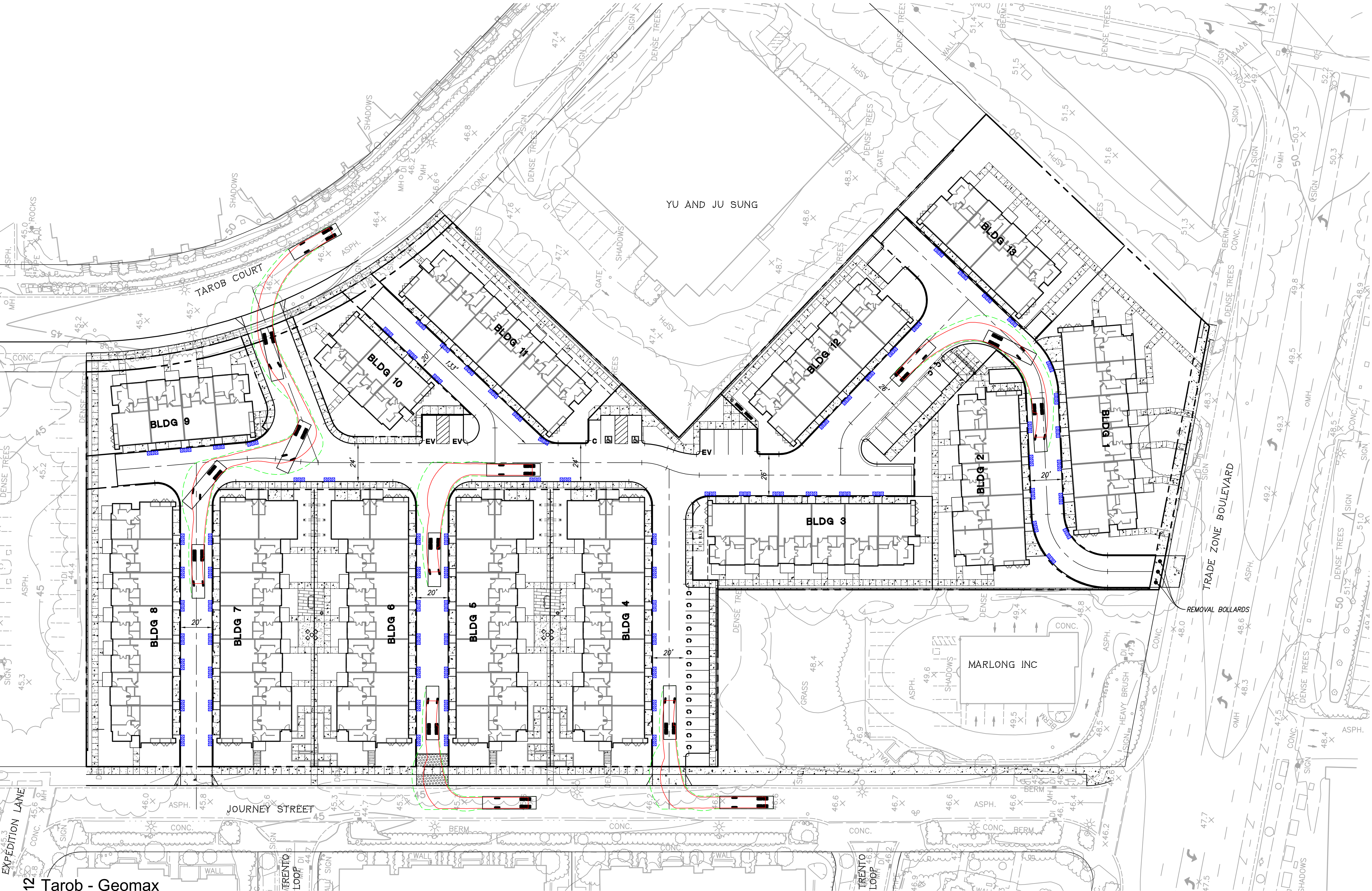


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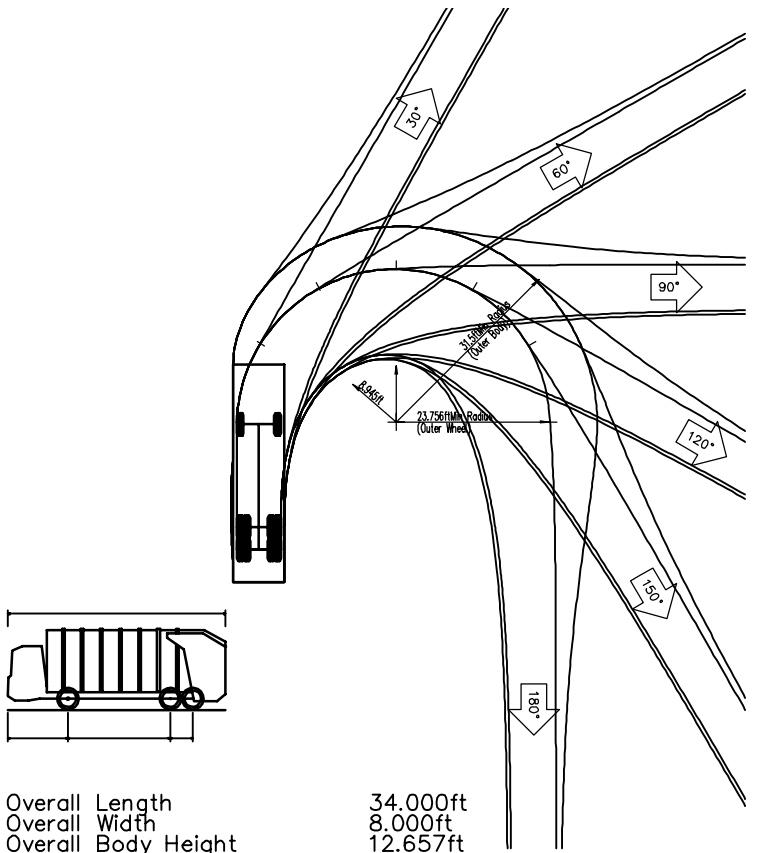
FIRE ACCESS PLAN
TM8.1

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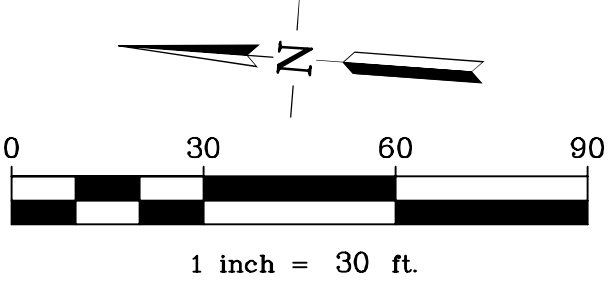


LEGEND

- WHEEL PATH
- VEHICLE ENVELOPE
- WASTE BINS



SOLID WASTE TRUCK TURNING TEMPLATE
1"=30'



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July 12, 2022

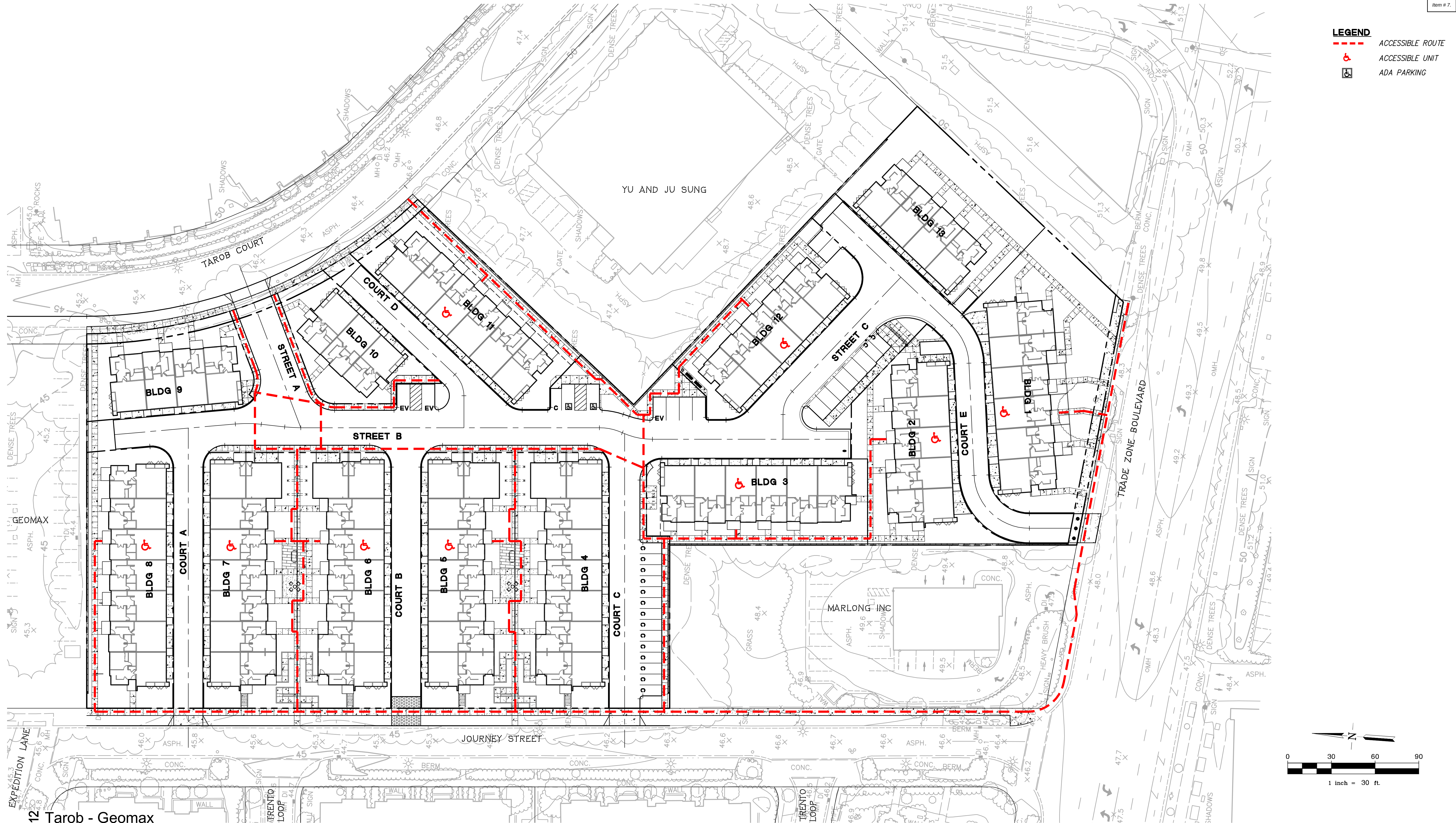
Toll Brothers

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Pleasanton, CA 94566 | 925.249-6000

PRELIMINARY SOLID WASTE MANAGEMENT PLAN
TM9.1



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PRELIMINARY SITE ACCESSIBILITY PLAN
TM10.1



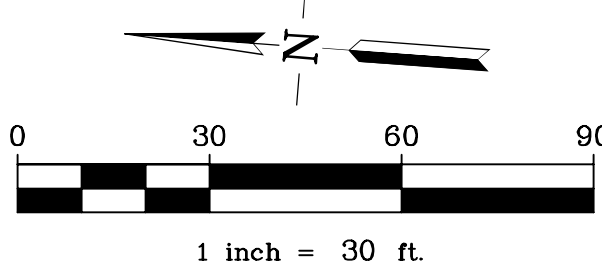
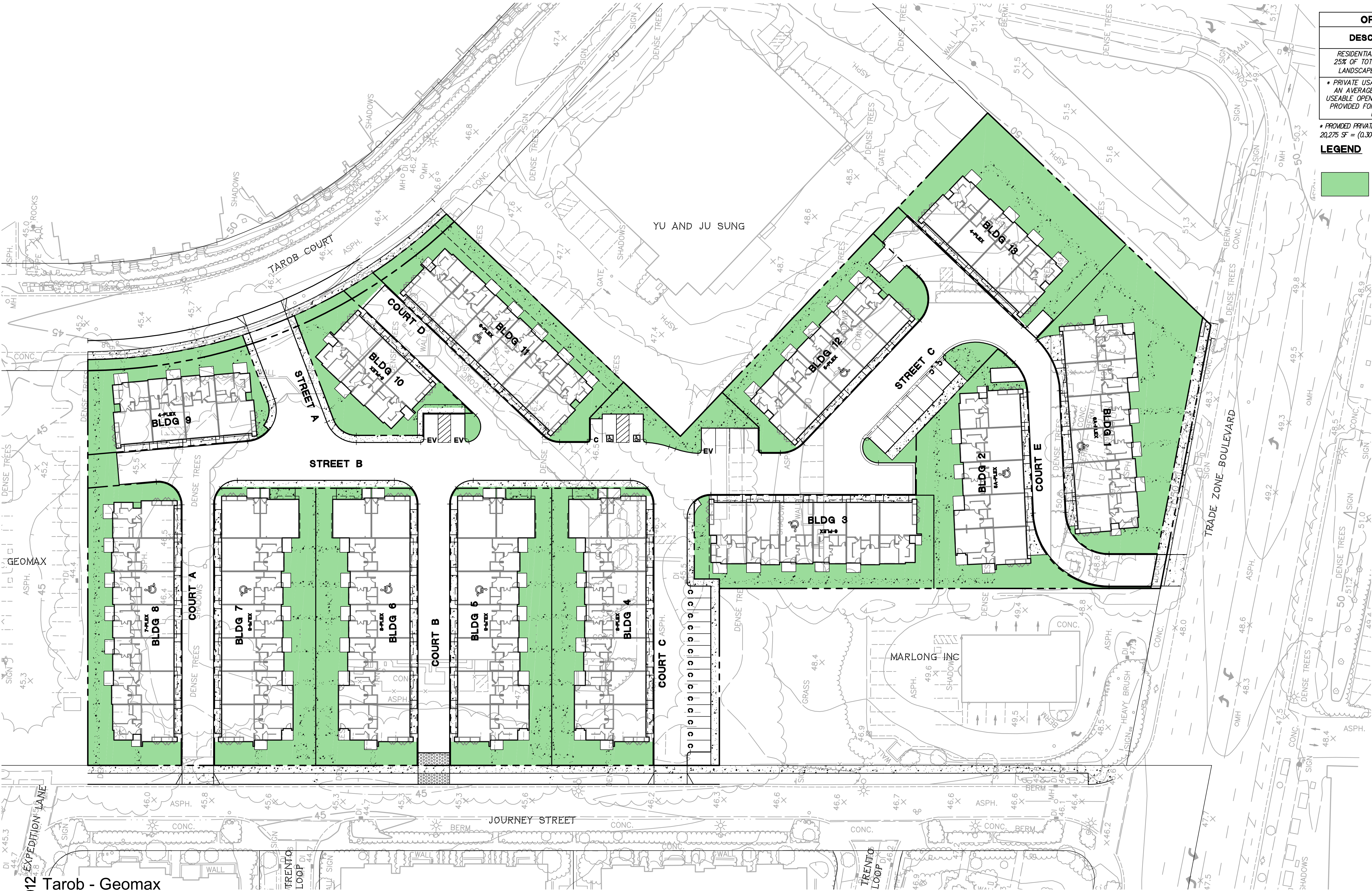
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OPEN SPACE REQUIREMENTS		
DESCRIPTION	REQUIRED	PROVIDED
RESIDENTIAL OPEN SPACE: 25% OF TOTAL LOT AREA IS LANDSCAPE/OPEN SPACE	44,295 SF	52,870 SF
* PRIVATE USABLE OPEN SPACE: AN AVERAGE OF 200 SF OF USEABLE OPEN SPACE SHALL BE PROVIDED FOR EACH DWELLING UNIT	15,600 SF	20,275 SF

* PROVIDED PRIVATE OPEN SPACE (20,275 SF)
20,275 SF = (0.30*44,295) + DECKS AND PORCHES (6,987 SF)

LEGEND

 OPEN SPACE AREA



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July 12, 2022

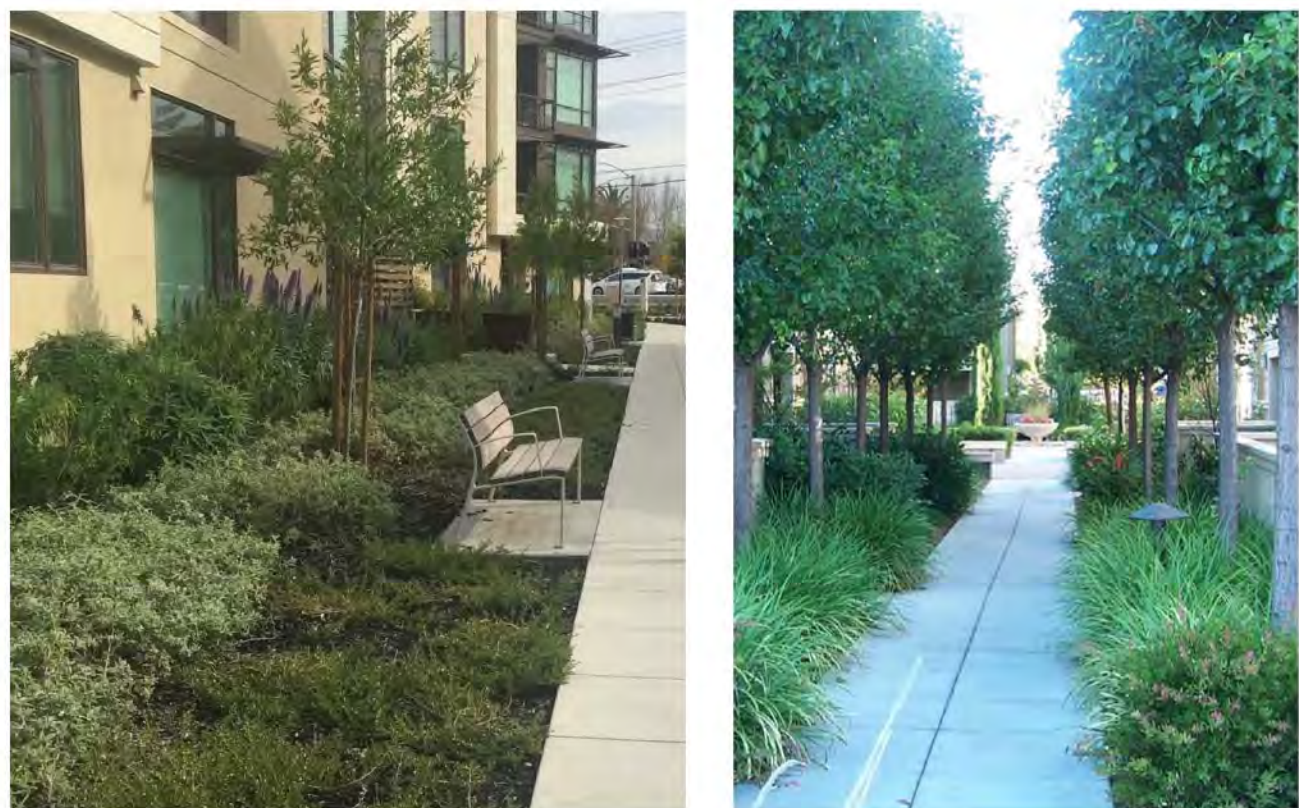
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OPEN SPACE PLAN
TM11.1



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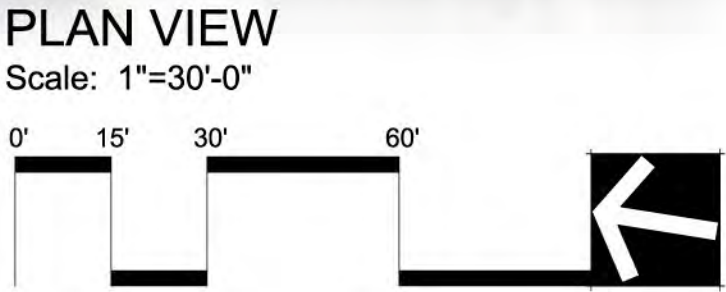


INSPIRATIONAL IMAGES

400-113 Tarob - Geomax
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July 21, 2022

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Illustrative Site Plan
L-1

PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
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phone: 510.452.4190 www.r3studios.com





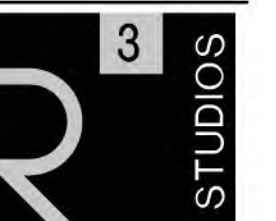
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Milpitas, CA
July 21, 2022

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Preliminary Landscape Plan
L-2

PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
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PROPOSED PLANT PALETTE

BOTANICAL NAME	COMMON NAME	MINIMUM CONTAINER SIZE	EXPOSURE	COMMENTS	WUCOLS
STREET TREES:					
PISTACIA CHINENSIS	CHINESE PISTACHE	24" BOX	SUN	STANDARD	M
NARROW EVERGREEN TREES:					
* ARBUTUS 'MARINA' CALODENDRUS DECURRENS MAGNOLIA 'GRANDIFLORA 'TEDDY BEAR' MAGNOLIA 'LITLLEL GEM' TRISTANIA LAURINA	NCN	24" BOX	N/A	STANDARD	M
	CALIFORNIA INCENSE CEDAR	24" BOX	N/A	STANDARD	M
	MAGNOLIA	36" BOX	SUN/SHADE	STANDARD	M
	LITTLE GEM MAGNOLIA	24" BOX	N/A	STANDARD	L
	NCN	24" BOX	N/A	STANDARD	L
SMALL FLOWERING ACCENT TREES:					
CHIONANTHUS RETUSUS	NCN	24" BOX	SUN/SHADE	STANDARD	L
CERCIS CANADENSIS 'FOREST PANSY'	EASTERN REDBUD	24" BOX	N/A	STANDARD	M
LAGERSTROEMIA INDICA 'MUSKOGEE'	LAVENDER CRAPE MYRTLE	24" BOX	SUN	STANDARD	L
MALUS SPECIES	CRABAPPLE	24" BOX	SUN	STANDARD	L
FOUNDATION SHRUBS:					
* ARCTOSTAPHYLOS SPECIES COLEONEMA PULCHRUM CORREA SPECIES HIMALAYACALAMUS FALCONERI 'DAMARAPA' LOROPETALUM 'CHINESE RAPHIOLEPIS INDICA 'SPRING RAPTURE' ROSMARINUS 'BLUE SPIRES' OSMANTHUS FRAGRENS	MANZANITA	5 GALLON	SUN		L
	PINK BREATH OF HEAVEN	5 GALLON	SUN		L
	AUSTRALIAN FUCHSIA	5 GALLON	SUN/ PART SHADE		L
	CANDY STRIPE BAMBOO	5 GALLON	SUN/ PART SHADE		L
	NCN	5 GALLON	PART SHADE		M
	INDIAN HAWTHORN	5 GALLON	SUN/ PART SHADE		L
	UPRIGHT ROSEMARY	5 GALLON	SUN/ PART SHADE		L
	NCN	5 GALLON	SUN/ PART SHADE		L
INTERMEDIATE SHRUBS:					
CORREA SPECIES	AUSTRALIAN FUCHSIA	5 GALLON	SHADE/SUN		L
DIETES VEGETA	FORTNIGHT LILY	5 GALLON	SHADE/SUN		L
LAVANDULA SPECIES	LAVENDER	5 GALLON	SUN		L
LIRIOPE GIGANTEA	PE	5 GALLON	SHADE/SUN		L
* MAHONIA SPECIES	NCN	5 GALLON	SHADE/SUN		L
NANDINA DOMESTICA	HEAVENLY BAMBOO	5 GALLON	SHADE/SUN		M
PHORMIUM SPECIES	NEW ZEALAND FLAX	5 GALLON	SUN		L
PITTOSPORUM TOBIRA 'WHEELER'S DWARF'	PITTOSPORUM	5 GALLON	SUN/SHADE		L
ROSA SPECIES	SHRUB ROSE	5 GALLON	SUN		M
FOREGROUND SHRUBS:					
AGAPANTHUS SPECIES	LILY OF THE NILE	1 GALLON	SHADE/SUN		M
HEMEROCALLIS HYBRIDS	EVERGREEN DAYLILY	1 GALLON	SUN		M
'ORANGE/YELLOW MIX 50/50'					
KNIPHOFIA SPECIES	RED-HOT POKER	1 GALLON	SUN		L
LAVANDULA 'MUNSTEAD'	ENGLISH LAVENDER	1 GALLON	SUN		L
LIRIOPE MUSCARI 'BIG BLUE'	BIG BLUE LILY	1 GALLON	SHADE		M
ANIGOZANTHOS	KANGAROO PAW	1 GALLON	SUN		L
PHORMIUM SPECIES (DWARF)	NEW ZEALAND FLAX	1 GALLON	SUN		L
SEDUM SPECIES	NCN	1 GALLON	SUN		L
SENECIO SPECIES	NCN	1 GALLON	SUN		L
* CAREX SPECIES	CAREX	1 GALLON	SUN/SHADE		L
PITTOSPORUM SPECIES	TOBIRA	5 GALLON	SUN		L
GROUNDCOVERS:					
* ARCTOSTAPHYLOS SPECIES GREVILLEA LANIGERA 'COASTAL GEM' ROSA 'PEACH DRIFT'	MANZANITA	1 GALLON	SUN		L
	NCN	1 GALLON	SUN/SHADE		L
	PEACH DRIFT	2 GALLON	SUN		M
ROSA 'PINK DRIFT'	PINK GROUNDCOVER ROSE	2 GALLON	SUN		L
* ZAUSCHNERIA SPECIES	CALIFORNIA FUCHSIA	1 GALLON	SUN		L
GRASSES:					
* CALOMOGROTIS SPECIES	REED GRASS	1 GALLON	SUN		L
FESTUCA MAIREI	ATLAS FESCUE	1 GALLON	SUN		L
LOMANDRA	LOMANDRA	1 GALLON	SUN		L
* MUHLENBERGIA SPECIES	DEER GRASS	1 GALLON	SUN		L
* PENNisetum SPECIES	FOUNTAIN GRASS	1 GALLON	SUN		L
VINES:					
FICUS PUMILA	CREEPING FIG	5 GALLON	SUN/SHADE		M
PARTHENOCISSUS TRICUSPIDATA	BOSTON IVY	5 GALLON	SUN/SHADE		M
JASMINUM SPECIES	JASMINE	5 GALLON	SUN/SHADE		M
STORM WATER TREATMENT SHRUBS AND GRASSES:		1 GALLON	MIX EVENLY		
SPECIES/COMMON NAME					
* ARISTIDA PURPUREA - PURPLE THREE-AWN	JUNCUS PATENS - BLUE RUSH				
* BOUTELOUA GRACIS - BLUE GRAMA	LEYMUS CONDENSATUS - GIANT WILD RYE				
* CAREX TEMULICOLA - BERKELEY SEDGE	MELICA CALIFORNICA - CALIFORNIA MELIC				
CHONDROPETALUM TECTORUM - CAPE RUSH	* MIMULUS SPECIES - MONKEY FLOWER				

NOTE:

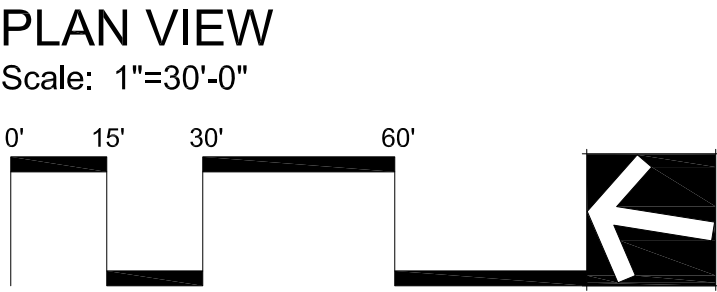
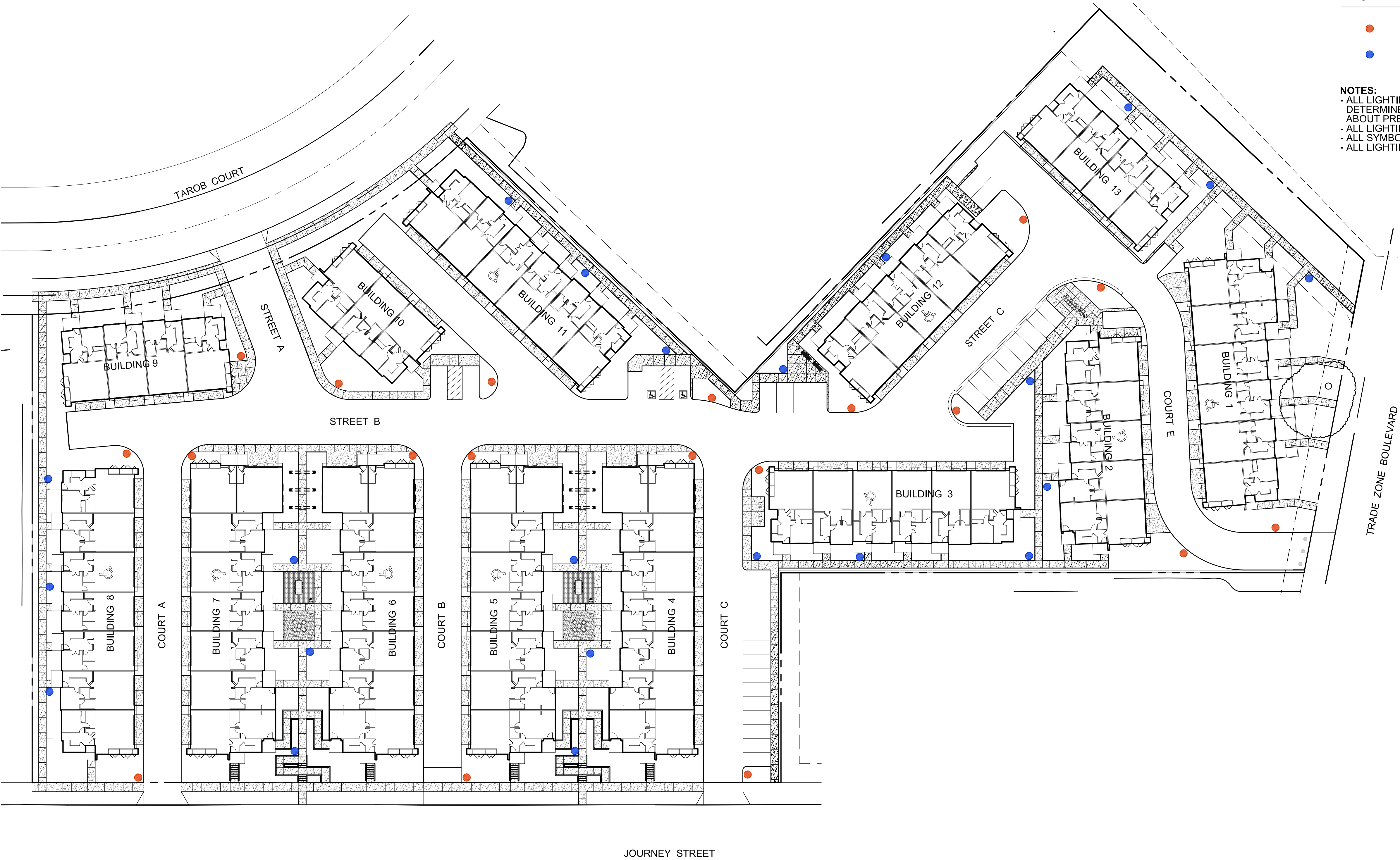
SEVERAL TREE SPECIES ARE LISTED PER TREE TYPE TO ALLOW FOR FLEXIBILITY IN THE EVENT THAT A SPECIFIC SPECIES IS UNAVAILABLE AT INSTALLATION OR PLANTING AREA IS LIMITED BY UTILITIES. NOT ALL SPECIES OF TREES, SHRUBS, GROUNDCOVERS OR GRASS WILL BE PROPOSED FOR CONSTRUCTION DOCUMENTS.

* NATIVE CALIFORNIA PLANT SPECIES

LIGHTING KEY (REPRESENTATIVE PLACEMENT)

- STREET LIGHTING
- PATHWAY/BOLLARD LIGHTING

NOTES:
- ALL LIGHTING IS STILL UNDER REVIEW. FINAL COUNT AND LOCATIONS TO BE DETERMINED. PHOTOMETRICS WILL BE PRODUCED ONCE MORE IS KNOWN ABOUT PREFERRED LIGHTING DENSITY.
- ALL LIGHTING WILL BE SCREENED FROM ADJACENT PROPERTY LINES.
- ALL SYMBOLS AND THEIR LOCATIONS ARE REPRESENTATIVE.
- ALL LIGHTING WILL MEET UBC EXITING AND PUBLIC SAFETY REQUIREMENTS.

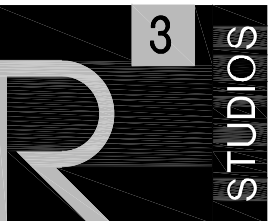


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July 21, 2022

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Pleasanton, CA 94566 | 925.249-6000

Lighting Location Plan
L-4

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LANDSCAPE ARCHITECTURE
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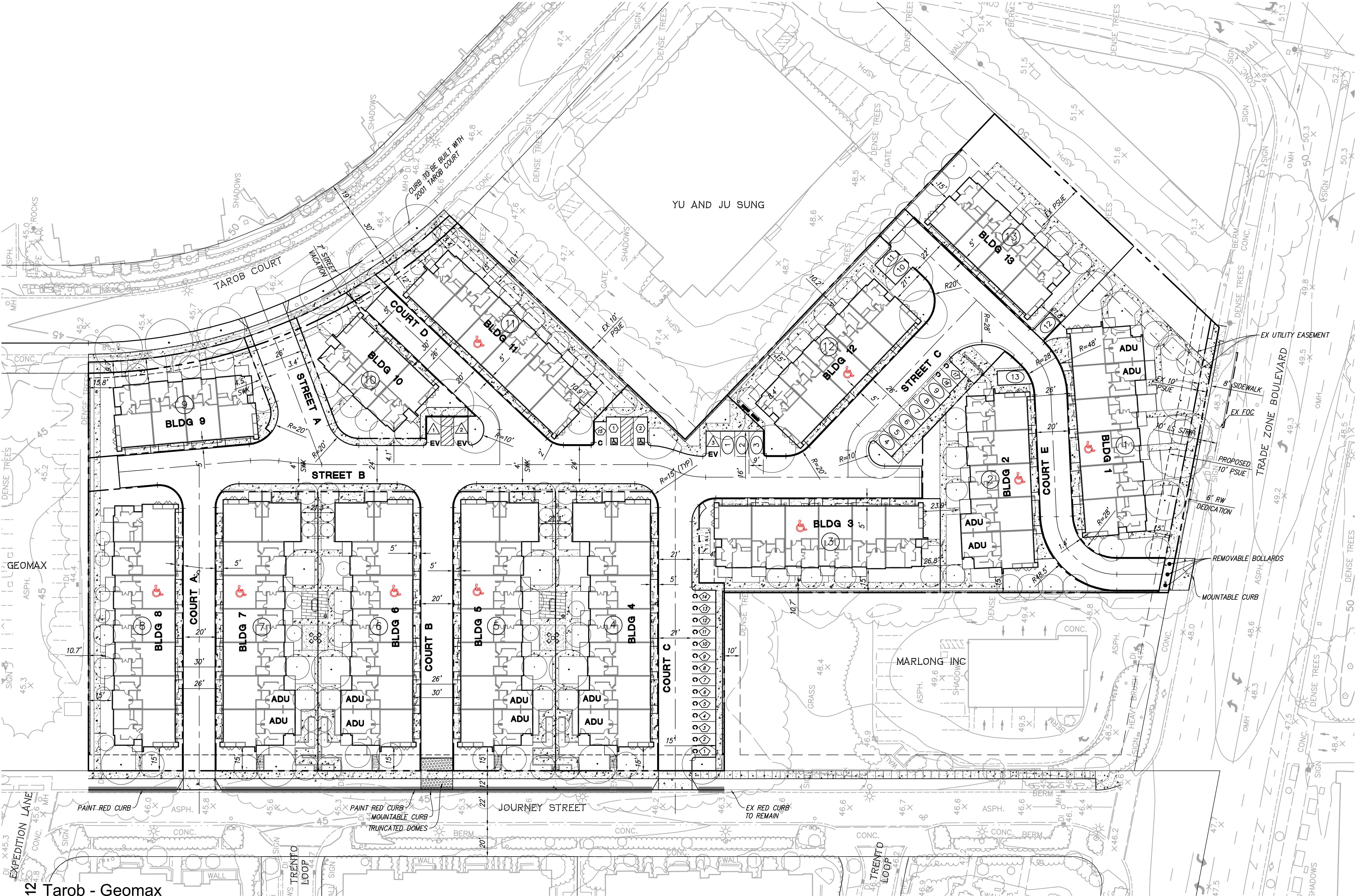


SITE DATA SUMMARY

1. CURRENT SITE AREA:	176,437 SF (4.1± ACRES)
2. SITE AREA AFTER STREET VACATION:	177,180 SF (4.1± ACRES)
3. NUMBER OF UNITS:	78
4. NET DENSITY:	22.0 UNITS/ACRE
5. PROPOSED NUMBER OF LOTS:	14
6. PARKING SUMMARY:	
a. GARAGE	156
b. ONSITE	
STANDARD	13
COMPACT	17
ADA	2
EV	3
TOTAL=	191
7. SITE COVERAGE CALCULATIONS:	
a. STREETS & COURTS	= 46,443 SF
b. BUILDING	= 68,223 SF
c. COMMON AREA	= 52,870 SF
d. PRIVATE OPEN SPACE	= 22,330 SF
TOTAL	= 189,866 SF

LEGEND

	LOT NUMBER
	ADA STALL
	STANDARD STALL
	COMPACT STALL
	EV STALL
	RED CURB
	ADA UNIT (9 TOTAL)

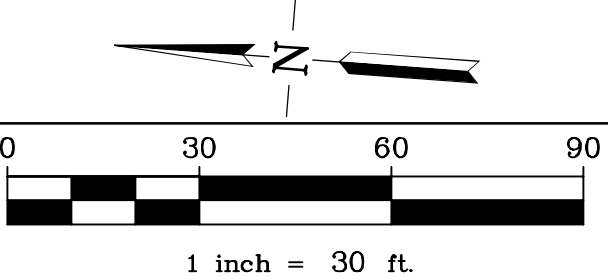


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Milpitas, CA
December 2, 2022

Toll Brothers

6800 Koll Center Parkway, Suite 320
Pleasanton, CA 94566 | 925.249-6000

SITE DEVELOPMENT PLAN
TM3.1



RJA
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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Certifying Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopting the Milpitas Metro Specific Plan (updating the 2008 Transit Area Specific Plan) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Kevin Riley, TASP (Metro) Manager, 408-586-3292)
Category:	Community Development
Meeting Date:	2/7/2023
	<u>Recommendation:</u> Adopt a resolution to certify the Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (SEIR) and adopt the Milpitas Metro Specific Plan.

Background:

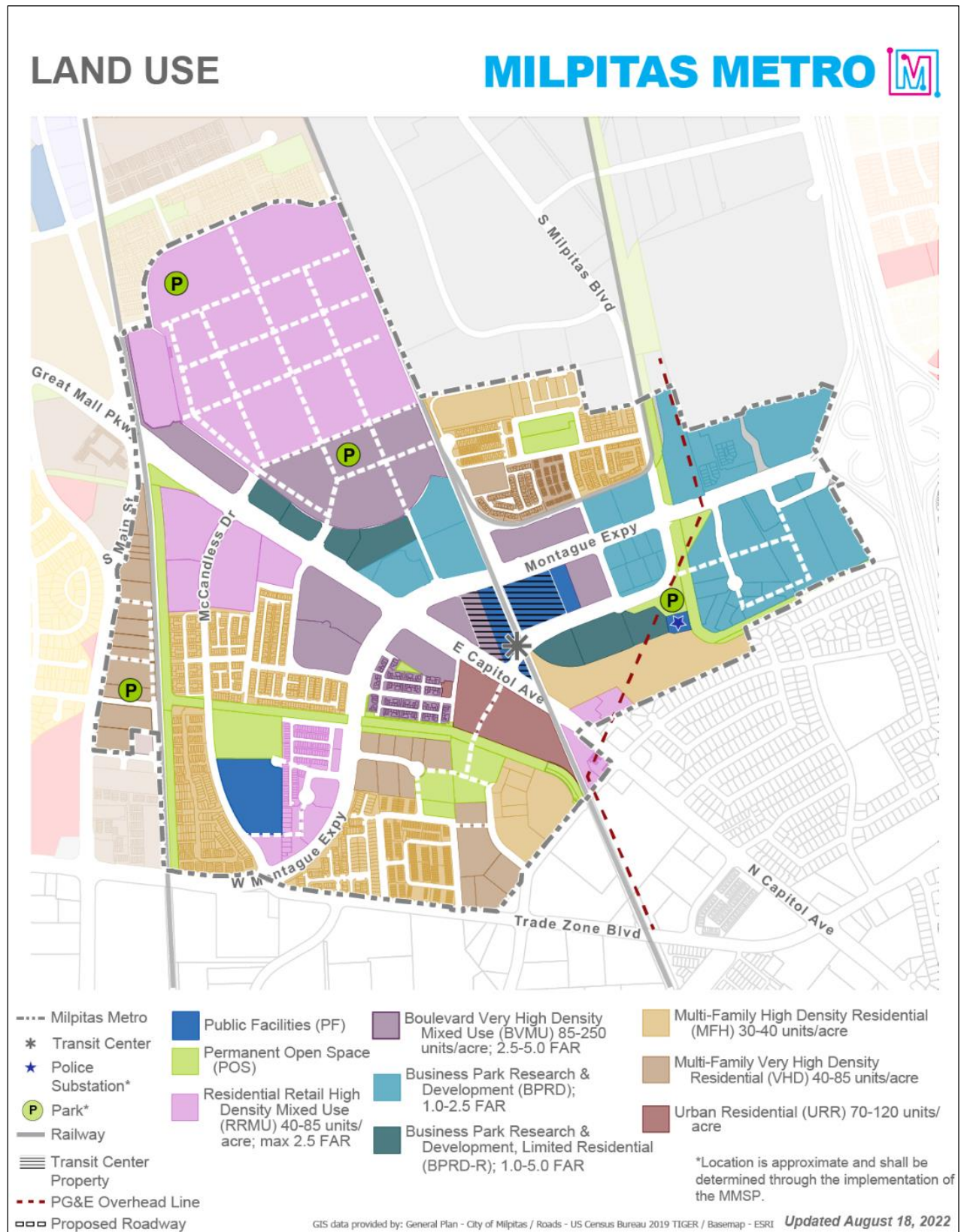
The City's consultant team, headed by Urban Field Studio (UFS), and City staff have prepared a final proposed version of the Milpitas Metro Specific Plan (Metro Plan), which is an update of the Transit Area Specific Plan (TASP) adopted in 2008. A complete version of the Metro Plan, as well as the Final Subsequent Environmental Impact Report (SEIR), are available on the project website (www.milpitasmetro.org). This proposed Metro Plan incorporates changes based upon comments received during the presentation to the City Council on October 12, 2021, as well as minor technical planning amendments and corrections. A Draft SEIR was completed and circulated on April 15, 2022 for a 45-day public review and comment period as required by the California Environmental Quality Act (CEQA). The Final SEIR completed in November 2022 is a Program-level environmental document that applies policies to mitigate potential environmental effects of the development of the Metro Plan.

This proposed Metro Plan was presented to the Planning Commission in a public hearing on November 9, 2022. Planning Commission comments included a question regarding a potential rail station near/at the Great Mall, interest in meeting the affordable housing needs, and addressing the parkland needs of both the Plan area and the City. Figure 1 on the following page is the Land Use Diagram for the Metro Plan planning area.

At the Planning Commission's second hearing on December 14, 2022, the Commission concurred with the findings and therefore recommended that Council adopt the Milpitas Metro Specific Plan. The Planning Commission was also provided with the Final Subsequent Environmental Impact Report (SEIR), and although the Commission is not required to take action on the SEIR insofar as the City Council is the decision making body for the Metro Plan, they recommended that the Council certify the Metro Plan SEIR prior to adopting the Metro Plan.

The initiation of the update to the TASP began in February 2020, focused primarily on expanding residential opportunities beyond the near buildout by then of the 7,577 total unit count for the Plan area, but also looking into opportunities to support and facilitate development of the office/employment elements of the Plan. Over several study sessions during 2020 and 2021, the Council received presentations and held discussions regarding, but not limited to, existing conditions, draft policy guidance and notable economic opportunities for new development, particularly in and around the Great Mall Subdistrict and the Innovation Subdistrict.

Figure 1: Milpitas Metro Specific Plan Land Use Diagram



The inclusion of the Innovation District came into the TASP update as a logical transfer of the concept from the General Plan update. The addition of properties farther south along South Main Street are all within the 1/2-mile walking distance of the Main Street-Great Mall light rail station. These two focus areas became key features of the Metro Plan and both take advantage of proximity to transit, including the Milpitas Transit Center that opened in June 2020. The opportunities that the Metro Plan both creates and takes advantage of at the same time are the proximities of the each of the land uses to transit and to each other, promoting a unique and complete neighborhood surrounding the Milpitas Transit Center. At the same time, most of this higher intensity commercial and higher density residential development will not be abutting most single-family neighborhoods of the City. The current Milpitas SMART provides convenient and affordable on-demand connections from all parts of the City to the Transit Center and thereby walking distance to services and future jobs in the Metro area, eliminating many drive-alone trips.

In December 2022, following local elections, City staff briefed the two newly elected members of the Council on the background and intent of the Metro Plan to provide them with an overview of Council actions to date.

Analysis:

The key elements and strategies of the 2040 Metro Plan expand the vision of the original TASP area as a unique neighborhood in the City. Key elements of the Metro Plan include:

1. Expand the Plan area from 437 to 510 acres;
2. Provide capacity for up to 7,000 new housing units through 2040;
3. Provide capacity of up to 3 million square feet of new commercial employment space;
4. Provide capacity for up to 300,000 square feet of new retail space;
5. Provide capacity for up to 700 new hotel rooms;
6. Establish an Innovation District within the Plan area for jobs and enhanced City revenues;
7. Create opportunities for mixed-use development on the 99-acre Great Mall site;
8. Accommodate development, including substantial affordable housing, on VTA-controlled sites;
9. Identify new infrastructure needs and provide an updated strategy to fund new projects.

The Metro Plan does not alter opportunities and allowances for projects granted their entitlements under the TASP. The updated policies and standards will apply to new entitlements granted following adoption of the Metro Plan to guide further development of the area at greater densities and intensities over the next 20 years. Each of the elements above are further explained below:

1) Geographic Expansion of the Plan area:

Together, the two proposed Metro Plan area annexations increase the Plan area to 510 acres.

The original TASP area of 437 acres is increased by adding 1) approximately 60 acres of industrially developed lands on the east side of Berryessa Creek, parcels both north and south of Montague Expressway, identified as the Innovation District envisioned in the General Plan, and as initiated by the City's Economic Development efforts, and 2) approximately 13 acres of mixed housing and commercially developed parcels on the west side of the Plan area, along the eastern side of South Main Street, which will move from the Midtown Specific Plan to the Metro Plan.

2) Increased potential for housing:

The Metro Plan will add the potential for an additional 7,000 housing units over its planning term through 2040. Several aspects of the Metro Plan increase the possibilities for new housing in the City. The State-required 8-year RHNA (6th cycle) obligations place a substantial housing demand on the City, much of which may be addressed in the Metro Plan area. These include: 1) the additional land area on the west side of the Plan (S. Main Street), 2) the opportunity for increased densities on remaining residentially designated areas in the TASP and 3) enabling opportunities for new housing with the

potential of the Great Mall area as a higher intensity mixed use area that can preserve retail services, increase employment and deliver new housing, including affordable housing, over both the 8-year RHNA cycle and the longer 20-year term of the Metro Plan.

3) Increased potential for employment:

The Metro Plan proposes 3 million square feet of new employment development with over 10,700 potential jobs. The 2008 TASP had envisioned nearly a million square feet (993,843 square feet) of new office/employment development, with little yet realized, in anticipating the coming of BART and its connection to the light rail system. The opening of BART in June 2020 came amidst the limitations that were created by the Covid 19 pandemic, but the potential to attract business to the area served by mass transit as well as the SMART first/last mile connections remains, although the timeline has been affected by that pandemic impact. Adding the Innovation District lands to the previously envisioned commercial potential presents a strong position to receive and support higher intensity employment opportunities for Milpitas residents and citizens elsewhere in the region who can work within a ½ mile walk of the Transit Station.

4) Increased potential for service commercial:

The Metro Plan proposes 300,000 square feet of new retail space and 700 new hotel rooms to be added to the TASP development scenario, resulting in about 1,500 new jobs. The proximity of jobs and housing all within about a ½ -mile radius of a transit station (BART/LRT) means not only worker demand for retail services but also local resident and visitor demand. Retail commercial development will need to increase to support more housing and jobs in the immediate vicinity as development progresses, as well as demand from elsewhere in the City.

5) New hotel rooms:

New business development will increase demand for hotel services over time. The Plan contemplates the eventual addition of hotels within the planned commercial areas. Hotel development and operations provide Transit Occupancy Tax revenues to the City while providing important convenient services for the commercial sector.

6) Innovation District:

The Metro Plan incorporates the vision in the adopted 2040 General Plan to transform the area between Berryessa Creek and Hwy 680 as an area focused on development of high-tech research and development (R&D), which could bring many well-paying jobs to Milpitas. The vision of the Innovation District also encompasses properties already within the TASP plan area, particularly along Montague Expressway.

7) Great Mall District Opportunities:

The Great Mall District encompasses approximately 140 acres on various sites under varied ownership, but a great portion of it, including the Great Mall itself on 99 acres, is owned by a single entity. While little change was envisioned here under the TASP, the update in the Metro Plan recognizes that if the fundamental character of retail development and operations change, as recent trends seem to indicate, the Great Mall District and the shopping center itself provide a great opportunity for both the City and the property owner to do much more with these sites.

8) VTA Properties and Opportunities:

The Valley Transportation Authority (VTA) owns several properties in the Metro area that are available for development of residential or mixed-use opportunities, including affordable housing. These include, in the more immediate term, the former bus transfer property on Great Mall Parkway (GMP) adjacent to the Great Mall and the triangle shaped site at the northeast corner of Capitol Avenue and Montague Expressway, abutting the new bus area at the Transit Center. A later opportunity could include new development on the parking lot site across South Milpitas Boulevard from the Transit Center.

9) Provision of public infrastructure:

The Metro Plan will expand the BIP to include new infrastructure needs to serve the entire Plan area, and particularly to meet the needs of new development in the expanded areas. Both expanding the land area and increasing development in the Plan area call for a review and reconsideration of the infrastructure program needed to support the ongoing redevelopment of the area. Facilitating access internally within the Plan area, as well as moving people and goods into and out of the area will be a significant component of a thorough Plan strategy.

The Metro Plan adoption anticipates a follow-up nexus fee study to provide a thorough analysis of needed funding for the current and new public infrastructure, and a look at the current CFD program. The original Transit Area Development Impact Fee (TADIF) was implemented following the 2008 adoption of the TASP to provide a means for development in the area to pay for the infrastructure needed to serve the Plan area through a schedule of impact fees collected with issuance of building permits. In addition, new residential development has paid a per-unit tax increment fee for a Community Facilities District (CFD) to help provide maintenance of facilities and services to support the area, such as but not limited to, Police and Fire services. Each of these fee elements should be reevaluated and rationally tied to the development categories. Per-unit impact fees for each category of development are based upon the benefit realized for that type of development by the type of improvement to be funded (nexus). Staff has begun the process to select a consultant to assist in evaluating the uncompleted and new Basic Infrastructure Projects and analyzing a fee adjustment.

The presentation and discussion in this hearing will provide an opportunity for Council and the public to see a draft version of the complete document proposed for Council adoption and including any input from the Planning Commission in their reviews on December 9 and 14, 2022. The Metro Plan presents the City's overarching vision for the approximately 510 acres of the Plan area and provides a practicable and implementable policy document that developers and builders can use to test the viability of proposed projects. In addition to laying out a buildable development scenario, the Metro Plan identifies the public infrastructure needed to make the area a vibrant and livable neighborhood of homes, jobs and services.

The Metro Plan, as an update of the TASP, is an enabling and directive planning tool that is intended to capture the City's vision and goals for the Plan area. While specific timing of the development of any part of the Plan is unknown and will largely be market driven, the adoption of the Plan presents incentive by the City for desirable development and allows development interests to understand the City's vision and become partners with the City in achieving the Plan goals with reduced cost and time, compared to processing individual proposals without the specific plan and its environmental work. Additional tools, such as Development Agreements, can provide further certainty for the City and the developer when suitably applied.

Note that a draft version of the Plan text that some may have seen describing each of the land uses had inadvertently identified the Very High Density (VHD) land use designation in Table 2-4 (p.40) as a range of 40-75 dwelling units per acre (du/ac), when it is actually 40-85 du/ac, consistent with the Land Use Plan – Figure 2-8 (p. 42). The building height limitation remains at a maximum of 75 feet, as currently permitted under the Midtown Plan rules.

Policy Alternatives:

The policies contained in this Plan for Council consideration come from feedback and direction received from Council during presentations on the draft of the Metro Plan since early 2020. Therefore, no policy alternatives are proposed here, but Council may, by consensus, insert or alter Metro Plan policies prior to Plan adoption.

Fiscal Impact:

As a long-range planning policy document with an implementation time horizon over the next 20 years, the Metro Plan will not have a direct, immediate fiscal impact. However, ongoing implementation of the Specific Plan over the next 20 years will have a significant positive impact on the City by providing new and enhanced opportunities for the City to develop new housing, retail, office, and other uses in proximity to transit. Impact fees generated by new development will help offset the cost of new infrastructure, and new development will also bring new revenue in the form of increase property tax, sales tax, and hotel tax. Full tax revenue to be generated is unknown at this time as the Metro Plan is a long-range policy document and does not prescribe any specific development project.

Broadly speaking, the Metro Plan will result in increased land valuations and economic activities that deliver enhanced revenues to the City to support the wide variety of services that the City provides. The Plan will continue a program of development impact fees to offset City expenditures for public infrastructure needed for new development in the Plan area. The Plan will also continue a program of tax increment fees of the Community Facilities District (CFD) that contribute to maintenance and the provision of services for the residents, workers and visitors in the area.

California Environmental Quality Act:

The City has prepared a Subsequent Environmental Impact Report (SEIR) for consideration and certification by the Council prior to the Metro Plan adoption. The Final SEIR includes a Draft SEIR that was publicly circulated for 45 days to seek input from Responsible Agencies and the general public. The Draft SEIR, with comments and prepared responses to them, along with the revisions to the Draft SEIR comprise the Final SEIR. The Final SEIR must be certified by the Council prior to adopting the Metro Plan. Only one public agency responded to the Draft SEIR (VTA). The prepared final document also includes responses to the two comments received at the Council hearing on April 19, 2022.

The Metro Plan SEIR does not reexamine the impacts or mitigations of the original TASP but rather evaluates potential environmental effects of the changes to the TASP and its area (seen as Project Change). Three distinct levels of environmental evaluation have been addressed by this CEQA review:

- 1) Preparation of an Initial Study (Appendix B, Draft SEIR) indicated the following environmental resource topics were seen to have less than significant impacts and are not included in the SEIR analysis: aesthetics, agriculture and forestry resources, biological resources, cultural resources, energy, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, tribal cultural resources and wildfire.
- 2) Analysis of environmental resource topics in the SEIR that, in some cases, call for policy mitigations to be applied to project approvals include: air quality, greenhouse gas emissions, land use and planning, noise, population and housing, public services and recreation, transportation, utilities and service systems, and cumulative impacts. Each of these impacts, their significance criteria prior to and following any necessary mitigation measures, and the mitigation measures that are called for in each category are spelled out in the summary tables, Table ES-2 and ES-3 on pages ES-8 through ES-16 of the Draft SEIR.
- 3) Identification of significant and unavoidable impacts that cannot be reduced to a level less than significant or for which there is no feasible mitigation. These call for a statement of overriding considerations that explain that the benefits of the Plan overall outweigh the consequences of the

adverse environmental effect; these include some limited effects in: air quality, greenhouse gas emissions and noise, including cumulative effects in each of these categories. A summary of these impacts can be found on page ES-6 of the Draft SEIR.

Additionally, the SEIR presents three Project Alternatives that might lessen or avoid some potential environmental effects compared to the proposed project (Metro Plan) – No Project, Reduced Height and No Plan Area Expansion to the West. The Alternatives are explored in Chapter 5 and summarized on page ES-7 of the Draft SEIR. While these three alternatives reduce potential effects, they also do not meet the objectives of the Metro Plan (see Section 2.3, page 2-2 of the Draft SEIR). No alternatives are recommended.

As noted above, the Final SEIR reflects the limited environmental impact of the Plan by describing policy-based mitigation for the new or expanded pieces of the Plan, and these policies are applied to individual projects that move forward and that are based upon the Plan. Projects which might go beyond the scope of the analysis of this program level SEIR may need both an amendment of the Metro Plan and to conduct further environmental analysis before they could receive entitlement.

Recommendation:

The Council action on this item must be supported by a majority of the Council:

1. Receive a presentation from staff and consultants;
2. Receive public comments;
3. Review and Consider the Final Subsequent Environmental Impact Report (SEIR);
4. Adopt the Findings to support the Final SEIR, along with the Overriding Considerations and Certify the Final SEIR;
5. Adopt the Mitigation Monitoring or Reporting Program (MMRP);
6. Adopt a Resolution certifying the SEIR and adopting the Milpitas Metro Specific Plan (Metro Plan);
7. Provide direction for follow-up zoning amendments, a TADIF nexus fee study and a CFD study.

Attachments:

- A) Resolution
- B) Exhibit A to City Council Resolution – Findings and Statement of Overriding Considerations
- C) Milpitas Metro Specific Plan Draft Supplemental Environmental Impact Report (weblink)
- D) Milpitas Metro Specific Plan Final Supplemental Environmental Impact Report (weblink)
- E) Milpitas Metro Specific Plan Mitigation Monitoring or Reporting Program (MMRP)
- F) Milpitas Metro Specific Plan (weblink)
- G) Planning Commission Resolution dated December 14, 2022
- H) Planning Commission Staff Report dated December 14, 2022
- I) Planning Commission Staff Report dated November 9, 2022

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
CERTIFYING THE MILPITAS METRO SPECIFIC PLAN FINAL SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT (SCH#: 2006032091), ADOPTING THE
FINDINGS OF FACT AND A STATEMENT OF OVERRIDING
CONSIDERATIONS, AND ADOPTING THE MILPITAS METRO SPECIFIC PLAN**

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65300 et seq. requires each city to prepare and adopt a comprehensive, long-term general plan for the physical development of the county or city; and

WHEREAS, the City’s General Plan was comprehensively updated in 1994 and subsequently amended in January 2002 with adoption of the Midtown Specific Plan, in June 2008 with adoption of the Transit Area Specific Plan (“TASP”), and in October 2010 with adoption of the City’s Park and Recreation Master Plan and Milpitas Bikeway Master Plan as well as to provide other updates to exhibits, tables, and figures; and

WHEREAS, in March 2021, the City adopted the 2040 General Plan, including goals, policies, and actions regarding each of the General Plan elements; and

WHEREAS, the “Planning Area” for the 2040 General Plan is defined as the entire area within the City’s Sphere of Influence (“SOI”), which includes the City limits and the Urban Growth Boundary/Urban Service Area (“UGB/USA”) and incorporates the TASP/Milpitas Metro Specific Plan area; and

WHEREAS, the City prepared a Draft Milpitas Metro Specific Plan as an update of the 2008 Transit Area Specific Plan, received comments over the course of more than two years at several public hearings and on the project website and amended the Specific Plan in response to comments; and

WHEREAS, the City finds that as a part of this Plan update, the inclusion of properties currently within the Midtown Specific Plan along South Main Street support the goals and objectives of the Metro Specific Plan to develop housing within a half-mile radius of VTA and BART transit stations; and

WHEREAS, THE City finds that the inclusion of properties east of Berryessa Creek, identified in the General Plan as an Innovation District, is consistent with the General Plan and the Metro Plan goals and objectives as these are generally within a half-mile radius of the Transit Center BART and VTA transit stations and close to housing and services; and

WHEREAS, the City prepared a Draft Subsequent Environmental Impact Report (“SEIR”) (SCH#:2006032091) for review by the general public and Responsible Agencies in

accordance with the requirements of the California Environmental Quality Act (CEQA) as prescribed in the Public Resources Code; and

WHEREAS, the Draft Subsequent Environmental Impact Report describes the changes to the TASP as the Metro Plan, provides a description of potential environmental impacts of the project and recommends mitigation measures to reduce the impacts to a less than significant level, where feasible, and released the Draft SEIR on April 15, 2022 for a 45-day public review period that ended on May 31, 2022; and

WHEREAS, the City received comments on both the Public Review Draft Milpitas Metro Specific Plan and the Draft SEIR, considered and analyzed the comments, and have made changes to both the SEIR and Draft Milpitas Metro Specific Plan as a result of the comments received; and

WHEREAS, the Final SEIR and the Draft Milpitas Metro Specific Plan were presented for review as part of the Planning Commission duly held and publicly noticed public hearing process on November 9, 2022 and again on December 14, 2022 and the Planning Commission considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

WHEREAS, on December 14, 2022, the City of Milpitas Planning Commission adopted Resolution 22-025 recommending that the City Council certify the Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report ("FSEIR") and adopt the Milpitas Metro Specific Plan; and

WHEREAS, on February 7, 2023, the City of Milpitas City Council held a duly noticed public hearing, including by teleconference, on the Final SEIR, the Findings of Fact, including Findings of Significant and Unavoidable Impacts and a Statement of Overriding Considerations, and the Draft Milpitas Metro Specific Plan, considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

WHEREAS, the City finds, based upon the separate but related Findings of Fact related to the Final SEIR, including findings of significant effects and a Statement of Overriding Considerations, attached hereto as **Exhibit A** that the benefits of the Project outweigh its potential significant environmental impact; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the Final SEIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the Final SEIR reflects the independent judgment of the City Council and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, the City has not received any comments or additional information that constituted substantial new information requiring recirculation under Public Resources Code section 21092.1 and State California Environmental Quality Act (“CEQA”) Guidelines section 15088.5; and

WHEREAS, all the requirements of CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines have been satisfied by the City in the SEIR, which is sufficiently detailed so that all of the potentially significant environmental effects of the proposed Project have been adequately evaluated; and

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

SECTION 1. Recitals

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City Final SEIR, the staff report, 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 incorporated herein by reference.

SECTION 2. Resolution Regarding Custodian of Record

The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department – 455 East Calaveras Blvd., Milpitas, CA 95035.

SECTION 3. City Council Action – Certifying the SEIR and Adopting the Milpitas Metro Specific Plan

The City Council finds that it has been presented with the Findings of Fact and a Statement of Overriding Consideration attached as **Exhibit A** hereto, which it has reviewed and considered, and hereby, based on the entirety of the record of proceedings the Milpitas Metro Specific Plan preparation, certifies the Subsequent Environmental Impact Report.

The City Council further finds that the geographic expansion of the Transit Area Specific Plan, consistent with the Milpitas Metro Specific Plan boundaries, is consistent with the goals and objectives of the Milpitas General Plan and the Metro Specific Plan, and therefore hereby removes the subject South Main Street properties from the Midtown Specific Plan and adds these properties and the properties in the Innovation District area east of Berryessa Creek into the Milpitas Metro Specific Plan.

The City Council hereby adopts the Milpitas Metro Specific Plan in its entirety with its goals and objectives, policies, land use designations and implementation measures.

SECTION 4. Notice of Determination

A Notice of Determination shall be filed with the County of Santa Clara and the State Clearinghouse within 5 (five) working days of final Project approval.

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzeta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Attachments:

Exhibit A: Findings of Fact and Statement of Overriding Considerations

Findings of Fact

Milpitas Metro Specific Plan Subsequent Environmental Impact Report

August 2022

I. Introduction

The City of Milpitas (City) prepared a Subsequent Environmental Impact Report (SEIR) in accordance with the provisions of the California Environmental Quality Act (CEQA) to evaluate the proposed changes to the Milpitas Transit Area Specific Plan (TASP) Final Environmental Impact Report, certified in 2008. The SEIR analyzes the Milpitas Metro Specific Plan (Metro Plan or Project), an update to the original TASP. The Findings of Fact (Findings) and Statement of Overriding Considerations (SOC) describe the environmental effects associated with the Metro Plan that are evaluated and disclosed in the final SEIR. The Findings are made pursuant to Public Resources Code (PRC) Sections 21081 and 21081.6 and CEQA Guidelines (Guidelines) Sections 15091. The SOC is made pursuant to Public Resources Code Sections 21081 and Guidelines Section 15093.

PRC Section 21081 and Guidelines Section 15091 require that the City, as the Lead Agency for the Metro Plan, prepare written findings for each significant environmental effect, accompanied by a brief rationale for each finding. Specific findings provided for under PRC Section 21081(a) and Guidelines section 15091(a) are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

Additionally, in accordance with PRC Section 21081(b) and Guidelines Section 15093, when the City finds that significant effects cannot be mitigated, the City must determine whether specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment and are therefore “acceptable.” If the benefits outweigh the significant environmental effects, then the lead agency must adopt a statement of overriding considerations in addition to the findings.

The final SEIR identified potentially significant environmental effects that could result from implementation of the Metro Plan, including significant and unavoidable effects. Therefore, an SOC is required.

II. Overview

A. Project Background

The Metro Plan is an update to the original TASP vision to transform the area into a transit-oriented neighborhood and complete the emerging neighborhood by expanding access to neighborhood services and retail, creating new opportunities for jobs near transit, providing additional affordable and market-rate housing, enhancing multimodal connections and non-vehicle mobility throughout the area, providing a greater variety of shared public spaces, and strengthening the identity sense of place within the Metro Plan Area.

In 2008, the City certified the TASP EIR (Certified EIR). The TASP consists of policies and proposals to guide growth, including transit-oriented residential and commercial redevelopment on industrial land in a 437-acre area around the Milpitas Bay Area Rapid Transit (BART) and Valley Transportation Authority (VTA) light rail station. The Certified EIR analyzed the potential impacts from implementation of the TASP, including the potential impacts associated with redevelopment within the 437-acre TASP Planning Area and the potential impacts associated with population growth (17,915) due to additional residential units (7,109), and new jobs (4,228) resulting from added office uses (993,843 square feet), retail uses (287,075 square feet), and hotels (175,500 square feet). These improvements were analyzed at a program level in the Certified EIR. While development associated with the TASP has occurred, full buildout of the TASP has not yet been achieved.

Based on current needs and policy directives, the City proposed changes to the TASP that was analyzed in the Certified EIR. The Metro Plan updates the TASP by adding substantially more opportunity for development in this transit-oriented and integrated mixed use area of the City, including the potential for more housing, jobs, services and amenities in the slightly enlarged Metro Plan Area. Implementation of the Metro Plan would result in four main changes (Project Change), when compared to the TASP. In summary, those changes are:

1. Expansion of the original 437-acre TASP Plan Area by approximately 73 additional acres, for a total of 510 acres, in order to facilitate the development of an Innovation District east of the Milpitas Transit Center and to promote opportunities for housing development along South Main Street. In addition, the Metro Plan redefines the five Districts, such that they are bounded by major streets and are located on a mix of land uses, development densities, park placements, street grids, pedestrian connections, and proximities to the Milpitas Transit Center.
2. Changes to the land use classifications (increased allowable densities, new land use classifications, and change in location of land use classifications) and policies, compared to (in addition to) the TASP, including up to 7,000 new housing units, 3 million square feet of new office space, 300,000 square feet of new retail space and 700 new hotel rooms.
3. Additional residential and non-residential density and related population and employment growth, compared to the TASP.
4. Extension of the Metro Plan horizon year by 10 years (from 2030 to 2040), compared to the TASP.

The environmental analysis of the Project Change involves study of new development that would result in the following: (1) the addition of up to 14,000 new residents and 9,500 new jobs, (2) the

expansion of the geographic area of the Metro Plan, and (3) changes in the policies identified in the Metro Plan. The SEIR prepared for the Metro Plan evaluates the potential environmental impacts associated only with the Project Change to determine whether the Project Change would alter the impact significance determinations for the TASP in the Certified EIR. The SEIR was not required to reevaluate development already addressed by the Certified EIR, even if it has not yet been constructed but may still go forward.

B. Procedural Background

A Notice of Preparation (NOP) for the SEIR was published, distributed to the State Clearinghouse, and circulated by the City on September 16, 2021. The NOP notified agencies, interested parties, and the public about the Project Change and provided an opportunity to transmit comments and concerns on the scope and content of the SEIR. The 30-day NOP review period began on September 16, 2021, and ended on October 18, 2021. A scoping meeting was held on September 30, 2021. The NOP and comments on the NOP received by the City are provided in Appendix A of the SEIR.

The draft SEIR was published and posted on the City's website on April 15, 2022. A Notice of Availability (NOA) was distributed to state and local agencies and other interested parties to solicit public comment. It was also published in the Milpitas Post on April 15, 2022. The draft SEIR was available for public comment from April 15, 2022, to May 31, 2022. The NOA solicited comments on the adequacy and accuracy of information presented in the draft SEIR. Comments were made in written form during the public comment period and as oral testimony at the public hearing on the draft specific plan and draft SEIR at a special meeting of the City Council on April 19, 2022. Written comments received during the public review period are included in the final SEIR, while verbal comments are summarized. The final SEIR also addresses all substantive written and oral comments on the draft SEIR.

C. Record of Proceedings and Custodian of Record

For the purposes of CEQA and the findings set forth below, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- The NOP, comments received on the NOP, NOA, and all other public notices issued by the City in relation to the Metro Plan.
- The Metro Plan final SEIR, including comment letters and technical materials cited in the document.
- All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants in relation to the SEIR.
- Minutes of the discussions regarding the Metro Plan and/or Metro Plan components at public hearings held by the City.
- Staff reports associated with Planning Commission and City Council meetings on the Metro Plan.
- Those categories of materials identified in PRC Section 21167.6(e).

The City Clerk is the custodian of the record of proceedings. The documents and materials that constitute the record of proceedings are available for review at the City of Milpitas Office of the City Clerk at 455 East Calaveras Boulevard, Milpitas, California 95035.

D. Consideration of the Subsequent EIR

Buildout for the Metro Plan was evaluated at a program level in the SEIR, which is important context for consideration of the SEIR. Guidelines Section 15168 establishes the use of program Environmental Impact Reports (EIR) for review of later activities. As defined therein, a program EIR is one prepared on a series of related actions that can be characterized as one large project. Feasible mitigation measures and alternatives developed in a program EIR must be incorporated into later activities in the program to the extent applicable to the individual later activity. Later activities must be evaluated to determine whether additional environmental review is needed. If a later activity is determined to be “within the scope” of the project covered by the program EIR, the lead agency can make a finding of consistency and approve the activity without having to prepare a new environmental document. The lead agency may use a written checklist or similar device to determine whether the environmental effects of the later action are within the scope of the program EIR. The City anticipates utilizing such a written checklist or similar device when evaluating future development projects processed under the Metro Plan and/or for implementation of related infrastructure improvements.

In adopting these findings, this Council finds that the SEIR was presented to this Council, the decisionmaking body of the lead agency, which reviewed and considered the information in the final SEIR prior to approving the Metro Plan. By these findings this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions in the SEIR. The City Council finds that the final SEIR was completed in compliance with CEQA. The SEIR represents the independent judgment and analysis of the City.

E. Severability

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Metro Plan, shall continue in full force and effect unless amended or modified by the City.

III. Findings for Significant and Unavoidable Impacts

A. Air Quality

1. **Impact AQ-2a: Construction of the Metro Plan would result in a new significant air quality impact that was not identified in the Certified EIR related to a cumulatively considerable net increase in any criteria pollutant for which the Project region is classified as a nonattainment area under an applicable federal or state ambient air quality standard.**

- (a) **Potential Impact:** The potential for construction of the Metro Plan to result in a cumulatively considerable net increase in any criteria pollutant for which the area is in nonattainment is described on pages 3.1-15 through 3.1-20 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the Mitigation Monitoring and Reporting Program (MMRP) that is to be adopted concurrently with these findings.

Mitigation Measure AQ-1: Require at Least Tier 4 Final Engines on Construction Equipment

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to further reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities, shall operate on at least an Environmental Protection Act (EPA)-approved Tier 4 Final or newer engine. Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the Metro Plan Area. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that they operate on no less than an EPA-approved Tier 3 engine.

Mitigation Measure AQ-2: Require Use of Diesel Trucks with 2010-Compliant Model Year Engines

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to use diesel trucks that have 2010 model year or newer engines, but no less than the average fleet mix for the current calendar year as set forth in the CARB's EMFAC database. In the event that 2010 model year or newer diesel trucks cannot be obtained, the contractor must provide documentation to the City showing that a good faith effort to locate such engines was conducted.

Mitigation Measure AQ-3: Require Construction Fleet to Use Renewable Diesel

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 hp and operating for more than 20 total hours over the entire duration of construction activities shall operate on renewable diesel (such as high performance renewable diesel).

Mitigation Measure AQ-4: Require Low-VOC Coatings During Construction

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings that have a VOC content of 10 grams/liter (g/L) or less are used during construction. The project applicant will submit evidence of the use of low-VOC coatings to City prior to the start of construction.

Mitigation Measure AQ-5: Require Fugitive Dust Best Management Practices

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material offsite will be covered.

- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
- A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.

Mitigation Measure AQ-6: Purchase Mitigation Credits for Construction Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for construction criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 277,000 square feet. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls). If the project is less than the screening limit for its project type, then applicants shall confirm to the City whether construction-related activities would include any of the following:

- Demolition.
- Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously) or construction would occur simultaneous with other Metro Plan development.
- Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development).
- Extensive site preparation (i.e., greater than default assumptions used by the CalEEMod model for grading, cut/fill, or earth movement).
- Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

If the project is less than the screening limit for the project type and construction would involve none of the five conditions above, no further action is required.

Project applicants not excluded by the conditions above shall estimate annual average emissions for each year of construction and compare the annual average emissions for each year of construction to the applicable BAAQMD thresholds at the time of analysis. The emissions estimate shall be provided as part of the project's initial application to the City. The City will review the estimate and confirm whether offsets are required for

construction. Should the City-confirmed estimate indicate that the proposed development estimate would not result in construction emissions exceeding BAAQMD's daily pollutant thresholds, no further action will be required.

For proposed developments that are estimated to result in exceedances of thresholds, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which construction emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which construction activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront, prior to construction.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

(c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:

(1) **Effects of Mitigation and Remaining Impacts:** As described on pages 3.1-16 through 3.1-17 of the draft SEIR, during construction of a development project, the activity that typically generates the highest nitrogen oxides (NO_x) and particulate matter (PM) exhaust emissions is the operation of off-road equipment, whereas the activity that typically generates the highest ROG emissions is the application of architectural coatings. Per Mitigation Measures AQ-1 through AQ-4, the use of at least Tier 4 engines and renewable diesel for off-road equipment, which is commercially available in Santa Clara County, newer trucks to reduce NO_x and PM exhaust emission levels, and use of low-volatile-organic-compound (VOC) paints to reduce reactive organic gas (ROG) emission levels would be required during construction activities within the Metro Plan Area. Additionally, while the Bay Area Air Quality Management District (BAAQMD) considers impacts from fugitive emissions of particulate matter with a diameter of 10 microns or less (PM₁₀) and particulate matter with a diameter of 2.5 microns or less (PM_{2.5}) significant without the application of standard best management practices (BMP), Mitigation Measure AQ-5 would require construction projects within the Metro Plan Area to implement BMPs (as recommended by BAAQMD) to reduce these fugitive dust emissions. Thus, the implementation of BMPs by future development projects associated with the Metro Plan would reduce fugitive PM₁₀ and PM_{2.5} emissions to less-than-significant levels.

However, with respect to ROG, NO_x, and PM₁₀ and PM_{2.5} exhaust emissions, there could be foreseeable conditions under the Metro Plan where the amount

of construction activity for an individual development project, or a combination of projects, could result in the generation of pollutant emissions that exceed their respective BAAQMD significance thresholds (i.e., 54 pounds/ day for ROG and NO_x, 82 pounds per day for exhaust PM₁₀, and 54 pounds/day for exhaust PM_{2.5}). Moreover, even with implementation of Mitigation Measures AQ-1 through AQ-5, as well as the policies described under Impact AQ-1, emissions of ROG, NO_x, PM₁₀, and PM_{2.5} exhaust may not be reduced to levels below BAAQMD's thresholds when multiple construction projects are concurrently ongoing within the Metro Plan Area.

Accordingly, additional mitigation would be required to reduce these emissions impacts. Pursuant to Mitigation Measure AQ-6, applicants would be required to assess and determine the estimated total emissions from proposed construction activities (subject to City review and approval), and coordinate with BAAQMD or a third-party or governmental entity to determine the mitigation fees for each development project's applicant to pay on a pro rata basis to BAAQMD or a third-party or governmental entity to offset their pollutant emissions as necessary, such that BAAQMD's daily pollutant thresholds would not be exceeded.

Based on recent experience of offsets being feasibly available for other large projects in the Bay Area, it is reasonable to assume that offset programs will be available in the future and that emissions can, therefore, be reduced below threshold levels. Should offsets programs be available for future development, Mitigation Measure AQ-6 would ensure that the construction-related emissions would not contribute to a significant level of air pollution, such that regional air quality within the San Francisco Bay Area Air Basin (SFBAAB) would be degraded and project impacts on air quality could be less than significant with mitigation. However, because it cannot be concluded that offset programs would always be available in the future at the time and in the amount needed for any given future development, for the purposes of this SEIR analysis, construction air quality impacts are conservatively assumed to be significant and unavoidable.

As described on draft SEIR pages 3.1-19 through 3.1-20, the Certified EIR concluded that after implementation of policies included in the TASP, criteria air pollutant impacts due to construction would be less than significant. Based on the analysis above, with incorporation of the Project Change, construction of the Metro Plan would result in a significant and unavoidable impact related to a cumulatively considerable net increase in criteria pollutants, even with implementation of Mitigation Measures AQ-1 through AQ-6. While it may be possible for Impact AQ-2a to be reduced to less than significant with mitigation (Mitigation Measure AQ-6), offsets cannot be guaranteed in the types and amounts that may be needed in the future and, thus, this analysis conservatively concludes a significant and unavoidable impact. Therefore, the Project Change would result in a change to the Certified EIR's impact determination related to criteria air pollutants from construction. The Project Change would result in a

new significant and unavoidable impact that was not identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with criteria pollutant emissions (CEQA Guidelines Section 15091(a)(3)).

2. Impact AQ-2b: Operation of the Metro Plan would result in a substantially more severe significant air quality impact than that identified in the Certified EIR related to a cumulatively considerable net increase in any criteria pollutant for which the Project region is classified as a nonattainment area under an applicable federal or state ambient air quality standard.

- (a) **Potential Impact:** The potential for operation of the Metro Plan to result in a cumulatively considerable net increase in any criteria pollutant for which the area is in nonattainment is described on pages 3.1-20 through 3.1-24 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure AQ-7: Restrict Use of Natural Gas in New Development

Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future local building regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.

Mitigation Measure AQ-8: Purchase Mitigation Credits for Operational Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for operational criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 346,000 square feet, 323,000 square feet, and 61,000 square feet, respectively. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls)

If the project is less than the screening limit for the project type, then no further action is required.

Project applicants not excluded by the condition above shall estimate annual average operational emissions for each operational year over the life of the project (20 years) and compare the annual average emissions for each year of operations to the BAAQMD thresholds used in the EIR for criteria pollutants. The emissions estimate shall be

provided as part of the project's initial application to the City for the project. The City will review the estimate and confirm whether offsets are required for operation. Should the City-confirmed estimate indicate that the proposed development estimate would not result in operational emissions exceeding BAAQMD's daily pollutant thresholds, no further action is required.

For proposed developments that are estimated to result in exceedances of thresholds during any year of the project's life, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which operational emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which operational activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront prior to operation.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

(c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:

(1) **Effects of Mitigation and Remaining Impacts:** As described on pages 3.1-22 through 3.1-24 of the draft SEIR, despite implementation of Metro Plan policies, it is reasonably foreseeable that projects developed under the Metro Plan would generate emissions in excess of BAAQMD's project-level thresholds. Mitigation Measure AQ-7 is required to reduce operational area source emissions to the extent feasible. Mitigation Measure AQ-8 is further required to offset operational criteria pollutant emissions through the purchase of mitigation credits. Through implementation of Mitigation Measures AQ-8, applicants would determine the estimated total emissions for operational activities, and BAAQMD would determine the mitigation fees for each development project's applicant to pay on a pro rata basis to BAAQMD to offset their pollutant emissions as necessary, such that BAAQMD's daily pollutant thresholds would not be exceeded. Offsetting emissions below BAAQMD's threshold levels would ensure future development under the Metro Plan would not contribute a significant level of air pollution such that regional air quality within the SFBAAB would be degraded. Based on recent experience of offsets being feasibly available for other large recent projects in Santa Clara County, it is reasonable to assume that offset programs will be available in the future and thus that emissions can be reduced below threshold levels. Should offset programs be available for future development, operational criteria pollutant emissions under the Metro Plan would be less than significant with mitigation. However, because it cannot be

concluded that offset programs would always be available in the future at the time and in the amount needed for any given future development, for the purposes of this EIR analysis, operational air quality impacts are conservatively assumed to be significant and unavoidable.

Additionally, the Project's operational emissions would potentially exceed BAAQMD's regional significance thresholds for ROG, NO_x, and CO. Implementation of Mitigation Measure AQ-7 and Mitigation Measure AQ-8 would help ensure that the individual developments within the City would not contribute a significant level of air pollution such that regional air quality within the Basin would be degraded. However, because cumulative development within the City would potentially exceed the BAAQMD regional significance thresholds, the Project Change could contribute to an increase in health effects in the SFBAAB until the attainment standards are met. Accordingly, health impacts related to regional criteria pollutants would be significant and unavoidable.

The Certified EIR concluded that even after implementation of policies included in the 1994 General Plan, criteria air pollutant (ozone, PM₁₀, and PM_{2.5}) impacts due to operation, for which the SFBAAB is in nonattainment, would be significant and unavoidable. Based on the analysis above, with incorporation of the Project Change, operation of the Metro Plan would result in a significant and unavoidable impact related to a cumulatively considerable net increase in criteria pollutants for which the SFBAAB is in nonattainment, even with implementation of Mitigation Measure AQ-7 and Mitigation Measure AQ-8. The Project Change would not result in a change to the Certified EIR's impact related to criteria air pollutants from operation. Nonetheless, the magnitude of the impact would be greater with operation of the Metro Plan, and the Project Change would result in a substantially more severe impact than what was identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with operation emissions of criteria air pollutants (CEQA Guidelines Section 15091(a)(3)).

3. Impact AQ-3: Implementation of the Metro Plan would result in a new significant air quality impact that was not identified in the Certified EIR related to exposing sensitive receptors to substantial pollutant concentrations (health impacts related to regional criteria pollutants, TAC emissions).

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in exposure of sensitive receptors to substantial criteria air pollutant concentrations is described on pages 3.1-24 through 3.1-27 and on page 3.1-29 of the draft SEIR. The potential for implementation of the Metro Plan to result in exposure of sensitive receptors to substantial concentrations of toxic air contaminants (TAC), such as diesel particulate matter (DPM), is described on pages 3.1-27 through 3.1-29 of the draft SEIR.

- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure AQ-1: Require at Least Tier 4 Final Engines on Construction Equipment

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to further reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities, shall operate on at least an Environmental Protection Act (EPA)-approved Tier 4 Final or newer engine. Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the Metro Plan Area. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that they operate on no less than an EPA-approved Tier 3 engine.

Mitigation Measure AQ-2: Require Use of Diesel Trucks with 2010-Compliant Model Year Engines

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to use diesel trucks that have 2010 model year or newer engines, but no less than the average fleet mix for the current calendar year as set forth in the CARB's EMFAC database. In the event that 2010 model year or newer diesel trucks cannot be obtained, the contractor must provide documentation to the City showing that a good faith effort to locate such engines was conducted.

Mitigation Measure AQ-3: Require Construction Fleet to Use Renewable Diesel

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 hp and operating for more than 20 total hours over the entire duration of construction activities shall operate on renewable diesel (such as high performance renewable diesel).

Mitigation Measure AQ-4: Require Low-VOC Coatings During Construction

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings that have a VOC content of 10 grams/liter (g/L) or less are used during construction. The project applicant will submit evidence of the use of low-VOC coatings to City prior to the start of construction.

Mitigation Measure AQ-5: Require Fugitive Dust Best Management Practices

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material offsite will be covered.
- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
- A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.

Mitigation Measure AQ-6: Purchase Mitigation Credits for Construction Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for construction criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 277,000 square feet. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls). If the project is less than the screening limit for its project type, then applicants shall confirm to the City whether construction-related activities would include any of the following:

- Demolition.
- Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously) or construction would occur simultaneous with other Metro Plan development.
- Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development).
- Extensive site preparation (i.e., greater than default assumptions used by the CalEEMod model for grading, cut/fill, or earth movement).
- Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

If the project is less than the screening limit for the project type and construction would involve none of the five conditions above, no further action is required.

Project applicants not excluded by the conditions above shall estimate annual average emissions for each year of construction and compare the annual average emissions for each year of construction to the applicable BAAQMD thresholds at the time of analysis. The emissions estimate shall be provided as part of the project's initial application to the City. The City will review the estimate and confirm whether offsets are required for construction. Should the City-confirmed estimate indicate that the proposed development estimate would not result in construction emissions exceeding BAAQMD's daily pollutant thresholds, no further action will be required.

For proposed developments that are estimated to result in exceedances of thresholds, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which construction emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which construction activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront, prior to construction.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

Mitigation Measure AQ-7: Restrict Use of Natural Gas in New Development

Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future local building regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.

Mitigation Measure AQ-8: Purchase Mitigation Credits for Operational Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for operational criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 346,000 square feet, 323,000 square feet, and 61,000 square feet, respectively. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls)

If the project is less than the screening limit for the project type, then no further action is required.

Project applicants not excluded by the condition above shall estimate annual average operational emissions for each operational year over the life of the project (20 years) and compare the annual average emissions for each year of operations to the BAAQMD thresholds used in the EIR for criteria pollutants. The emissions estimate shall be provided as part of the project's initial application to the City for the project. The City will review the estimate and confirm whether offsets are required for operation. Should the City-confirmed estimate indicate that the proposed development estimate would not result in operational emissions exceeding BAAQMD's daily pollutant thresholds, no further action is required.

For proposed developments that are estimated to result in exceedances of thresholds during any year of the project's life, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which operational emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which operational activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront prior to operation.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

Mitigation Measure AQ-9: Prepare a Health Risk Assessment

All applicants proposing development of projects in the Metro Plan Area within 1,000 feet of existing sensitive receptors, as defined by BAAQMD (e.g., residential), shall prepare a site-specific construction and operational Health Risk Assessment (HRA). The HRA shall include all reasonably foreseeable sources of TAC, consistent with BAAQMD guidelines. If the HRA demonstrates, to the satisfaction of the City, that the health risk exposures or PM2.5 concentrations for adjacent receptors would be less than BAAQMD project-level thresholds, then additional mitigation would be unnecessary. However, if the HRA demonstrates that health risks or PM2.5 concentrations would exceed BAAQMD project-level thresholds, additional feasible on- and offsite mitigation would be analyzed by the applicant to help reduce risks to the greatest extent practicable. Mitigation may include installation of indoor air filters (MERV 13 or higher) at sensitive receptor locations and planting of vegetation and trees as pollution buffers.

(c) Finding: Based on the SEIR and the record before the Council, the Council finds that:

- (1) **Effects of Mitigation and Remaining Impacts:** As discussed on pages 3.1-26 through 3.1-27 of the draft SEIR, regional criteria pollutants were discussed in Impact AQ-2a are significant and unavoidable even with mitigation. Construction emissions resulting from individual projects developed under the Metro Plan could exceed BAAQMD's regional ROG, NO_x, and PM thresholds. Mitigation Measures AQ-1 through AQ-6 would reduce regional emissions of ROG, NO_x, and PM below BAAQMD's regional thresholds (assuming offset programs are available in the future). Similarly, long-term operation of development under the Metro Plan would result in an increase of in emissions of ROG, NO_x, PM₁₀, and PM_{2.5}. Mitigation Measure AQ-7 and Mitigation Measure AQ-8 would reduce regional emissions of ROG, NO_x, and PM of individual projects developed under the Metro Plan below BAAQMD's regional thresholds (assuming offset programs are available in the future). Based on recent experience of offsets being feasibly available for other large recent projects in the Bay Area, it is reasonable to assume that offset programs will be available in the future and thus that emissions can be reduced below threshold levels. Should offset programs be available for future development, health impacts related to criteria pollutant emissions under the Metro Plan would be less than significant with mitigation, as discussed above. Because it cannot be concluded that offset programs per Mitigation Measure AQ-6 and Mitigation Measure AQ-8 would be available in the future at the time and in the amount needed for any given future development, for the purposes of the SEIR analysis, health impacts related to regional criterial pollutants are conservatively assumed to be significant and unavoidable.

As discussed on pages 3.1-27 through 3.1-29 of the draft SEIR, the potentially significant impacts resulting from exposure of receptors to PM_{2.5} exhaust from new stationary sources, emissions from increased traffic volumes, and TACs generated during project construction activities would be reduced by Metro Plan policies and mitigation measures. Mitigation Measure AQ-1 would require BMPs to minimize construction emissions. In addition, Policy SC 8.1 in the Metro Plan requires the installation of high-efficiency filters should new sensitive receptors be sited within 500 feet of major roadways and highways in the Metro Plan Area. Reductions achieved by this measure cannot currently be quantified as the locations of these receptors are unknown.

Even with these Metro Plan policies and BMPs, additional emissions generated by new stationary sources, vehicle trips, and construction activity could expose receptors to cancer and non-cancer risks in excess of BAAQMD significance thresholds during construction and operational activities. Mitigation Measure AQ-9 requires applicants to provide a project-level evaluation of construction- and operational-related health risks from future projects. However, because it cannot be concluded what the result of the project level evaluation will be without speculation, it is possible that mitigation for future project health risks may be inadequate to reduce impacts below BAAQMD's threshold level. This impact would be significant and unavoidable.

The Certified EIR concluded that, after implementation of policies included in the TASP, impacts related to exposing sensitive receptors to TACs would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would have a significant and unavoidable impact with regard to exposing sensitive receptors to PM pollution during construction and operation. Thus, the Project Change would result in a change to the Certified EIR's impact determination with regard to exposing sensitive receptors to substantial TACs. The Project Change would result in a new significant and unavoidable impact that was not identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with exposure of sensitive receptors to substantial pollutant concentrations (CEQA Guidelines Section 15091(a)(3)).

4. Impact GHG-1: Implementation of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to the generation of greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to generate GHG emissions and have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs is discussed on pages 3.2-14 through 3.2-23 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure GHG-1: Require Implementation of BAAQMD-Recommended Construction Best Management Practices

All applicants within the Metro Plan Area shall require their contractors, as a condition of contracts, to reduce construction-related GHG emissions by implementing BAAQMD's recommended BMPs, including the following measures (based on BAAQMD's 2017 CEQA Guidelines):

- Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.
- Use at least 10 percent local building materials (sourced from within 100 miles of the Metro Plan Area).
- Recycle and reuse at least 50 percent of construction waste or demolition materials.

Mitigation Measure GHG-2: Implement Operational GHG Reduction Measures or Their Equivalent

Applicants of future projects within the Metro Plan Area shall implement the following operational GHG emissions reduction strategies where feasible or demonstrate why a measure is not feasible, and implement equivalent GHG reductions to the foregone measure, or pay a mitigation fee per Mitigation Measure GHG-3 (see below) to compensate for any foregone GHG reductions not implemented. Applicants of future projects that do not propose to implement all of the strategies described below shall prepare a feasibility study outlining why the declined strategies were not implemented (e.g., feasibility, not applicable, etc.), estimating the foregone GHG reductions, and identifying any equivalent GHG reduction measures proposed (or proposal to pay a mitigation fee instead) for the City's review and concurrence prior to the issuance of building permits.

- **LEED Certification.** The United States Green Building Council (USGBC) is a private 501(c)3, non-profit organization that promotes sustainability in building design, construction, and operation. The USGBC developed the LEED program, which provides a rating system that awards points for new construction based on energy use, materials, water efficiency, and other sustainability criteria. LEED has certification systems for both commercial and residential use.

While LEED allows some flexibility in choice of measures to meet LEED criteria, new construction shall be required to include specific committed measures in use of recycled and sustainable materials in construction, water efficiency, and efficiency of energy use. New development in the Metro Plan Area shall be required to achieve LEED Silver certification or equivalent, or a higher certification, or provide equivalent GHG reductions through proposed new measures or payment of a fee per Mitigation Measure GHG-3.

- **Natural Gas Infrastructure.** Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.
- **Solar Roofs.** Mounted rooftop electricity-generating solar panels convert solar energy to electricity for use in commercial and residential buildings.

New construction in the Metro Plan Area shall be required to either employ solar roofs on at least 30 percent of roof square footage or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of solar roofs may be part of meeting LEED Silver or equivalent requirements.

- **Waste Minimization Programs.** For waste that is generated by non-residential uses, recycling, composting of food waste and other organics, and the use of reusable products instead of disposal products diverts solid waste from the landfill stream.

New non-residential uses in the Metro Plan Area shall be required to implement recycling (including organics recycling) and reusable product use programs or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per

Mitigation Measure GHG-3. The inclusion of these measures may be part of meeting LEED Silver or equivalent requirements.

Mitigation Measure GHG-3: Purchase GHG Mitigation Credits

Where a future project in the Metro Plan Area does not propose to implement all of the GHG reduction measures in Mitigation Measure GHG-2 and does not propose equivalent reduction measures to compensate for the measures not implemented, the project applicant shall be required to pay on a pro rata basis for net operational GHG emissions to compensate for emissions foregone from not implementing all measure in Mitigation Measure GHG-2 or providing equivalent reductions.

Applicants may purchase GHG credits from a voluntary GHG credit provider¹ that has an established protocol that requires projects generating GHG credits to demonstrate that the reduction of GHG emissions are real, permanent, quantifiable, verifiable, enforceable, and additional (per the definition in California Health and Safety Code Sections 38562(d)(1) and (2)). Definitions for these terms are as follows.

- **Real:** Estimated GHG reductions should not be an artifact of incomplete or inaccurate emissions accounting. Methods for quantifying emission reductions should be conservative to avoid overstating a project's effects. The effects of a project on GHG emissions must be comprehensively accounted for, including unintended effects (often referred to as "leakage"). To ensure that GHG reductions are real, the reduction must be a direct reduction within a confined project boundary.
- **Additional:** GHG reductions must be additional to any that would have occurred in the absence of the Climate Action Reserve, or of a market for GHG reductions generally. "Business as usual" reductions (i.e., those that would occur in the absence of a GHG reduction market) should not be eligible for registration.
- **Permanent:** To function as offsets to GHG emissions, GHG reductions must effectively be "permanent." This means, in general, that any net reversal in GHG reductions used to offset emissions must be fully accounted for and compensated through the achievement of additional reductions.
- **Quantifiable:** GHG reductions or GHG removal enhancements must be able to be accurately measured and calculated relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage.
- **Verified:** GHG reductions must result from activities that have been verified. Verification requires third-party review of monitoring data for a project to ensure the data are complete and accurate.
- **Enforceable:** The emission reductions from offset must be backed by a legal instrument or contract that defines exclusive ownership and the legal instrument

¹ Examples of potential GHG credit sources include the Climate Action Reserve Voluntary Offset Registry and Climate Forward program, the American Carbon Registry, or other providers using the Verified Carbon Standard.

can be enforced within the legal system in the country in which the offset project occurs or through other compulsory means. Please note that per this mitigation measure, only credits originating within the United States are allowed.

GHG credits must also meet the following requirements:

- GHG credits may be in the form of GHG offsets for prior reductions of GHG emissions verified through protocols or forecasted mitigation units for future committed GHG emissions meeting protocols.
- All credits shall be documented per protocols functionally equivalent in terms of stringency to CARB's protocol for offsets in the cap and trade program. The applicant must provide the protocols from the credit provider and must document why the protocols are functionally equivalent.
- Applicants shall identify GHG credits in geographies closest to Santa Clara County first and only turn to larger geographies (i.e., California, United States, global) if adequate credits cannot be found in closer geographies, or the procurement of such credits would create an undue financial burden. Applicants shall provide the following justification for not using credits in closer geographies in terms of either availability or cost prohibition:
 - Lack of enough credits available in closer geographies.
 - Prohibitively costly credits in closer geographies are defined as credits costing more than 300 percent the amount of the current costs of credits in the regulated CARB offset market.
 - Documentation submitted supporting GHG credit proposals shall be prepared by individuals qualified in GHG credit development and verification and such individuals shall certify the following: (1) proposed credits meet the definitions for the criteria provided in this measure; and (2) the protocols used for the credits meet or exceed the standards for stringency used in CARB protocols for offsets under the California cap-and-trade system.

This mitigation includes the following specific requirements for applicants of future projects within the Metro Plan Area:

- Applicants shall provide the City with a 30-year operational GHG emissions estimate for the final design that includes two scenarios: (1) project operations including all Mitigation Measure GHG-2 reduction measures; and (2) project operations only including those Mitigation Measure GHG-2 reduction measures the applicant proposes to implement and any alternative GHG reduction measures proposed by the applicant. The emissions estimate can be focused exclusively on the sectors where Mitigation Measure GHG-2 measures will not be fully implemented. The difference between the Scenario 1 and Scenario 2 operational emissions will define the amount of needed annual GHG reductions to be addressed through purchase of GHG mitigation credits. The City shall review the emission estimates to ensure they are representative and determine the total amount of annual GHG emissions required to be addressed through purchase of mitigation credits.

Applicants shall purchase GHG mitigation credits meeting the above requirements and provide documentation to the City of how the credits meet the above requirements. Applicants shall provide the City with documentation of the retirement of sufficient GHG credits to meet the annual GHG reduction amount prior to January 1 of each calendar year for the following year. This requirement shall apply to operations for up to 30 years. Applicants may purchase credits up front or in advance as they choose.

(c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:

- (1) **Effects of Mitigation and Remaining Impacts:** As described on pages 3.2-19 and 3.2-23 of the draft SEIR, while the City would encourage implementation of voluntary sustainability features through the Metro Plan, there is no guarantee that all of these measures will be incorporated into the designs of all future developments. Furthermore, as discussed above, the Metro Plan Area will have waste and wastewater GHG emissions in 2045. Thus, this is a potentially significant impact.

Implementation of Mitigation Measure GHG-2 would reduce operational GHG emissions in the sectors with the largest amount of emissions. Mitigation Measure GHG-2, which includes requirements for Leadership in Energy and Environmental Design (LEED) certification or equivalent, electric space and water heating, solar roofs, and waste diversion programs, would also ensure consistency with the Scoping Plan and the long-term statewide reduction trajectory. Should all measures included in Mitigation Measure GHG-2 be implemented by a future project sponsor within the Metro Plan Area, that development would be consistent with the Metro Plan and the state's reduction targets for 2030.

Additionally, because the extent of implementation of Mitigation Measure GHG-2 is currently unknown (e.g., applicability and feasibility), impacts from future development could remain significant for some sectors if all strategies are not implemented for a particular project or equivalent measures are not identified by a project sponsor. For projects where all of the requirements of Mitigation Measure GHG-2 (or their equivalent) are not implemented, Mitigation Measure GHG-3 would reduce net operational GHG emissions through purchase of GHG mitigation credits. Even with implementation of Mitigation Measures GHG-2 and Mitigation Measure GHG-3, the Metro Plan Area may still have GHG emissions by 2045 (as discussed above) and thus would not achieve carbon neutrality. Thus, operations of the Metro Plan would result in a significant and unavoidable impact.

The Certified EIR concluded that after implementation of policies included in the TASP, GHG impacts would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would result in a significant and unavoidable impact related to operational GHG emissions and would be inconsistent with the state's carbon neutrality goal by 2045, even with implementation of Mitigation Measures GHG-2 and GHG-3. Thus, the Project Change would result in a change to the Certified EIR's impact determination

related to GHG emissions. The Project Change would result in a new significant and unavoidable impact that was not identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with GHG emissions (CEQA Guidelines Section 15091(a)(3)).

5. Impact NOI-1: Construction of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to generating a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.

- (a) **Potential Impact:** The potential for construction of the Metro Plan to generate a substantial temporary or permanent increase in ambient noise levels in excess of standards established in the general plan or noise ordinance is described on page 3.4-15 through 3.4-18 of the draft SEIR.
- (b) **Mitigation Measures:** No feasible mitigation is available.
- (c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:
- (1) **Effects of Mitigation and Remaining Impacts:** As described on pages 3.4-17 through 3.4-18 of the draft SEIR, construction noise would be reduced by General Plan Policies N 1-5 and N 1-8, as well as Action N-1b, Action N-1c, and Action N-1d. Policy N 1-8 of the General Plan requires construction activities to comply with standard best practices to reduce noise exposure to adjacent sensitive receptors. In addition, General Plan Action N-1d requires that projects be evaluated individually during the environmental review process to determine if project construction would constitute a significant impact on nearby sensitive receptors. If impacts are identified, mitigation measures pertaining to construction noise would be required in addition to the standard best practices required in Action N-1d of the General Plan.

The requirements in Action N-1d of the General Plan, which would apply to all development under the Metro Plan, would reduce impacts related to construction noise in the Metro Plan Area. However, it is not possible to ensure that in all instances and for all future projects, that compliance with General Plan Policies and Actions would reduce construction noise to less-than-significant levels. For example, certain projects may require construction noise during nighttime hours for various reasons (e.g., projects that require road closures, concrete pour activities that require early morning starts to prevent concrete curing prematurely). Therefore, even with the requirement that mitigation measures be applied to reduce construction noise for future projects pursuant to the General Plan, some future projects may result in significant construction noise impacts that cannot be reduced to less-than-significant levels with mitigation.

The Certified EIR concluded that after implementation of policies included in the 1994 General Plan and TASP, construction noise impacts would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would result in a significant and unavoidable impact related to construction noise even with implementation of applicable General Plan policies. Thus, the Project Change would result in a change to the Certified EIR's impact determination related to construction noise. The Project Change would result in a new significant and unavoidable impact that was not identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with construction noise (CEQA Guidelines Section 15091(a)(3)).

6. Impact NOI-3: Construction of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to exposing persons to or generating excessive ground-borne vibration or ground-borne noise levels. Operation of the Metro Plan would not result in a new or substantially more severe impact than what was identified in the Certified EIR related to exposing persons to or generating excessive ground-borne vibration or ground-borne noise levels.

- (a) **Potential Impact:** The potential for construction of the Metro Plan to generate excessive groundborne vibration is described on pages 3.4-27 through 3.4-34 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure NOI-2: Protect Potentially Susceptible Structures from Construction-Generated Vibration

If a future development project in the Metro Plan requires any of the following construction activities, then this measure would apply:

- Pile driving within approximately 100 feet of an existing structure.
- Construction with other ground-disturbing equipment (e.g., jackhammers, bulldozers, excavators, etc.) within 25 feet of an existing structure.

The construction contractor shall consult with the City to determine whether adjacent or nearby structures could be adversely affected by construction-generated vibration. If buildings adjacent to construction activity are identified that could be adversely affected, the project applicant will incorporate into construction specifications for their project a requirement that the construction contractor(s) use all feasible means to avoid damage to adjacent and nearby buildings. Such methods to help reduce vibration-related damage effects may include maintaining a safe distance between the construction site and the potentially affected building (e.g., at

least 100 feet for “historic and some old buildings”) or using “quiet” pile-driving technologies (such as predrilling piles or using sonic pile drivers).

Should pile driving be required within 100 feet of a building in the “historic or some old building” category, within 75 feet of buildings in the “older residential structures” category, and within 55 feet of buildings in the “modern industrial/commercial” category, the City will work with the construction contractor to implement a monitoring program to minimize damage to adjacent buildings and ensure that any such damage is documented and repaired. If required, the monitoring program will include the following components:

- Prior to the start of any ground-disturbing activity, the project applicant will engage a historic architect or qualified historic preservation professional to undertake a preconstruction survey of nearby affected buildings that may be considered historic. For buildings that are not potentially historic, a structural engineer or other professional with similar qualifications will document and photograph the existing conditions of potentially affected buildings within 100 feet of pile-driving activity.
- Based on the construction and condition of the resource(s), the consultant will also establish a standard maximum vibration level that will not be exceeded at any building, based on existing conditions, character-defining features, soil conditions, and anticipated construction practices. Common standards are a peak particle velocity of 0.25 inch per second for “historic and some old buildings,” a peak particle velocity of 0.3 inch per second for “older residential structures,” and a peak particle velocity of 0.5 inch per second for “new residential structures” and “modern industrial/commercial buildings,” as shown in Table 3.4-2.
- To ensure that vibration levels do not exceed the established standard, the project applicant will monitor vibration levels at each structure and prohibit vibratory construction activities that generate vibration levels in excess of the standard.
- Should vibration levels be observed in excess of the selected standard, construction will be halted, and alternative construction techniques put in practice, to the extent feasible (e.g., predrilled piles could be substituted for driven piles, if feasible, based on soil conditions, or smaller, lighter equipment could be used in some cases).
- The historic preservation professional (for effects on historic buildings) and/or structural engineer (for effects on non-historic structures) will conduct regular periodic inspections (every 3 months) of each building during ground-disturbing activity on the project site. Should damage to any building occur, the building(s) will be remediated to their preconstruction condition at the conclusion of ground-disturbing activity on the site.

Mitigation Measure NOI-3: Implement Nighttime Construction Vibration Control Plan to Reduce Vibration-Related Annoyance Impacts on Adjacent Land Uses

Should vibration-generating construction activities for future development under the Metro Plan be proposed outside of the daytime hours of 7:00 a.m. to 7:00 p.m. and should non-pile driving equipment be proposed within 25 feet of occupied residences or buildings where people sleep, the construction contractor for a project in the Metro Plan Area shall develop a nighttime construction vibration control plan. In addition, should nighttime pile driving activities be proposed within 100 feet of

such buildings, the construction contractor for a project in the Metro Plan Area shall similarly develop a nighttime construction vibration control plan. The construction vibration control plan shall demonstrate that vibration levels at the residential land uses during nighttime hours will not exceed 0.1 PPV in/sec.

In addition, the construction contractor will appoint a project vibration coordinator who will serve as the point of contact for vibration-related complaints during project construction. The contact information for the project vibration coordinator shall be posted at the project site and on a publicly available project website for future development projects under the Metro Plan. Should residents in the project area submit complaints to the project vibration coordinator for nighttime construction vibration concerns, the project vibration coordinator shall work with the construction team to adjust activities to reduce vibration or to reschedule activities for a less sensitive time.

(c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:

- (1) **Effects of Mitigation and Remaining Impacts:** As described on pages 3.4-29 through 3.4-34 of the draft SEIR, the Metro Plan does not include policies related to ground-borne vibration from construction activities. However, Policy N 1-8, Action N-1c, and Action N-1d in the 2040 General Plan would help reduce the effects of construction-related vibration on sensitive uses. For example, the implementation of standard best practices for construction noise (see General Plan Policy N 1-8) would also help reduce construction vibration. Actions under this policy include a requirement for developers to prepare a construction management/noise mitigation plan that defines BMPs to reduce construction noise and suggests that mitigation measures be implemented. For example, measures under this Action that would reduce construction-related vibration impacts are the requirements to locate stationary equipment as far as practical from sensitive receptors, to locate construction staging areas farther from occupied sensitive uses, notifying neighbors adjacent to the construction sites of upcoming construction, and designating a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise (or vibration).. Another suggested mitigation measure is limiting the allowable hours for construction activity to between 7:00 a.m. and 7:00 p.m., when people are generally less sensitive to vibration and noise. Should construction for a future project be limited to these daytime hours, sleep disturbance and vibration-related annoyance impacts would be less than significant based on the thresholds defined in this analysis. However, even with implementation of these policies, vibration-related damage and annoyance impacts from future construction would be potentially significant.

Mitigation Measure NOI-2 would be required to reduce construction-related damage impacts. However, it is not possible to ensure that in all instances and for all future projects, mitigation measures would reduce construction vibration to less-than-significant levels. For example, certain projects may require construction to take place at very close distances to existing structures. Therefore, even with the requirement that mitigation measures be applied to reduce construction vibration for future projects, some future projects may

result in significant vibration-related damage impacts from construction that cannot be reduced to less-than-significant levels with mitigation.

Mitigation Measure NOI-3 would be required to reduce construction-related annoyance impacts. However, it is not possible to ensure that mitigation measures would reduce construction vibration to less-than-significant levels in all instances and for all future projects. For example, certain projects may require construction take place at very close distances to existing occupied residences. Therefore, even with the requirement that mitigation measures be applied to reduce construction vibration for future projects, some future projects may result in significant vibration-related annoyance impacts from construction that cannot be reduced to less-than-significant levels with mitigation.

The Certified EIR concluded that after implementation of a VTA BART Expansion SEIR mitigation measure and policies included in the TASP, vibration impacts from operation of the TASP would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would have a less-than-significant impact related to operational sources of vibration. The Project Change would not alter the result of the Certified EIR's impact determination related to operational vibration impacts. For operational vibration impacts the Project Change would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects than were in the Certified EIR.

The Certified EIR did not make a determination regarding vibration impacts from construction activities in the TASP area. Based on the analysis above, with incorporation of the Project Change, construction of the Metro Plan would result in a significant and unavoidable vibration impact, even with implementation of Mitigation Measure NOI-2 and Mitigation Measure NOI-3. Thus, the Project Change would result in a new significant and unavoidable impact that was not identified in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with construction vibration (CEQA Guidelines Section 15091(a)(3)).

7. Impact C-AQ-1: Implementation of the Metro Plan would result in new and substantially more severe cumulative air quality impacts that were not identified in the Certified EIR.

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in a cumulatively considerable contribution to a significant cumulative air quality impact is discussed on pages 4-4 through 4-6 of the draft SEIR.

- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure AQ-1: Require at Least Tier 4 Final Engines on Construction Equipment

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to further reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities, shall operate on at least an Environmental Protection Act (EPA)-approved Tier 4 Final or newer engine. Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the Metro Plan Area. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that they operate on no less than an EPA-approved Tier 3 engine.

Mitigation Measure AQ-2: Require Use of Diesel Trucks with 2010-Compliant Model Year Engines

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to use diesel trucks that have 2010 model year or newer engines, but no less than the average fleet mix for the current calendar year as set forth in the CARB's EMFAC database. In the event that 2010 model year or newer diesel trucks cannot be obtained, the contractor must provide documentation to the City showing that a good faith effort to locate such engines was conducted.

Mitigation Measure AQ-3: Require Construction Fleet to Use Renewable Diesel

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 hp and operating for more than 20 total hours over the entire duration of construction activities shall operate on renewable diesel (such as high performance renewable diesel).

Mitigation Measure AQ-4: Require Low-VOC Coatings During Construction

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings that have a VOC content of 10 grams/liter (g/L) or less are used during construction. The project applicant will submit evidence of the use of low-VOC coatings to City prior to the start of construction.

Mitigation Measure AQ-5: Require Fugitive Dust Best Management Practices

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material offsite will be covered.
- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
- A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.

Mitigation Measure AQ-6: Purchase Mitigation Credits for Construction Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for construction criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 277,000 square feet. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls). If the project is less than the screening limit for its project type, then applicants shall confirm to the City whether construction-related activities would include any of the following:

- Demolition.
- Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously) or construction would occur simultaneous with other Metro Plan development.
- Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development).
- Extensive site preparation (i.e., greater than default assumptions used by the CalEEMod model for grading, cut/fill, or earth movement).
- Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

If the project is less than the screening limit for the project type and construction would involve none of the five conditions above, no further action is required.

Project applicants not excluded by the conditions above shall estimate annual average emissions for each year of construction and compare the annual average emissions for each year of construction to the applicable BAAQMD thresholds at the time of analysis. The emissions estimate shall be provided as part of the project's initial application to the City. The City will review the estimate and confirm whether offsets are required for construction. Should the City-confirmed estimate indicate that the proposed development estimate would not result in construction emissions exceeding BAAQMD's daily pollutant thresholds, no further action will be required.

For proposed developments that are estimated to result in exceedances of thresholds, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which construction emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which construction activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront, prior to construction.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

Mitigation Measure AQ-7: Restrict Use of Natural Gas in New Development

Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future local building regulations. Natural gas infrastructure and appliances shall be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.

Mitigation Measure AQ-8: Purchase Mitigation Credits for Operational Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for operational criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 346,000 square feet, 323,000 square feet, and 61,000 square feet, respectively. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls)

If the project is less than the screening limit for the project type, then no further action is required.

Project applicants not excluded by the condition above shall estimate annual average operational emissions for each operational year over the life of the project (20 years) and compare the annual average emissions for each year of operations to the BAAQMD thresholds used in the EIR for criteria pollutants. The emissions estimate shall be provided as part of the project's initial application to the City for the project. The City will review the estimate and confirm whether offsets are required for operation. Should the City-confirmed estimate indicate that the proposed development estimate would not result in operational emissions exceeding BAAQMD's daily pollutant thresholds, no further action is required.

For proposed developments that are estimated to result in exceedances of thresholds during any year of the project's life, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which operational emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which operational activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront prior to operation.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

Mitigation Measure AQ-9: Prepare a Health Risk Assessment

All applicants proposing development of projects in the Metro Plan Area within 1,000 feet of existing sensitive receptors, as defined by BAAQMD (e.g., residential), shall prepare a site-specific construction and operational Health Risk Assessment (HRA). The HRA shall include all reasonably foreseeable sources of TAC, consistent with BAAQMD guidelines. If the HRA demonstrates, to the satisfaction of the City, that the health risk exposures or PM2.5 concentrations for adjacent receptors would be less than BAAQMD project-level thresholds, then additional mitigation would be unnecessary. However, if the HRA demonstrates that health risks or PM2.5 concentrations would exceed BAAQMD project-level thresholds, additional feasible on- and offsite mitigation would be analyzed by the applicant to help reduce risks to the greatest extent practicable. Mitigation may include installation of indoor air filters (MERV 13 or higher) at sensitive receptor locations and planting of vegetation and trees as pollution buffers.

(c) Finding: Based on the SEIR and the record before the Council, the Council finds that:

- (1) **Effects of Mitigation and Remaining Impacts:** As discussed on pages 4-5 through 4-6 of the draft SIER, per BAAQMD guidelines, exceedances of project-level thresholds would be cumulatively considerable, and the cumulative impact would be significant. As discussed in Impacts AQ-2a and AQ-2b, construction and operational emissions resulting from individual projects developed under the Specific Plan could exceed BAAQMD's regional ROG, NO_x, PM₁₀, and PM_{2.5} thresholds. Mitigation Measures AQ-1 through AQ-8 could reduce regional emissions of ROG, NO_x, PM₁₀, and PM_{2.5} to a level below BAAQMD's regional thresholds. Because it cannot be concluded that offset programs per Mitigation Measures AQ-6 and AQ-8 would be available in the future at the time and in the amount needed for any given future development under the Metro Plan, for the purposes of the SEIR analysis, impacts during construction and operation related to regional criteria pollutants quality impacts from the project are conservatively assumed to result in a significant and unavoidable cumulative impact.

Existing nearby DPM sources and the Metro Plan could contribute to a cumulative health risk for sensitive receptors near the Metro Plan Area. As discussed under Impact AQ-3, a quantitative evaluation of potential health risk impacts for the Metro Plan is not possible. Mitigation Measures AQ-1 through AQ-9 would develop and maintain best practices for reducing emissions associated with construction and operational activities and require that new development with sensitive receptors adjacent to TAC sources be designed to minimize health risks, which would reduce construction and operational health risks for existing and future receptors. However, there may be instances where project-specific conditions would preclude a reduction in the health risk to a level below adopted thresholds and expose receptors to cumulative health risks. For instance, this may include the installation or operation of new stationary sources of TACs (e.g., generators) on the project site that result in significant PM_{2.5} concentrations. However, BAAQMD permitting would ensure that cancer risks and the hazard index would be below the applicable thresholds but would not ensure that PM_{2.5} concentrations would be below the applicable threshold. In addition, future development projects under the Metro Plan could generate DPM, PM_{2.5}, or other TACs that could expose adjacent receptors to significant health risks (e.g., from construction and operational sources that are adjacent to sensitive receptors). Therefore, it is conservatively assumed that the Metro Plan in combination with other past, present, and reasonably foreseeable future projects would result in a cumulative impact that would be significant and unavoidable.

The Certified EIR concluded that cumulative impacts on to air quality would be significant and unavoidable due to conflicts with air quality plans and criteria air pollutants due to operation. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would have a significant and unavoidable cumulative impact on air quality due to impacts during construction and operation related to regional criteria pollutants quality impacts and exposing adjacent receptors to significant health risks. The Project Change would result in new cumulative air quality impacts (criteria air pollutants during construction

and exposing adjacent receptors to significant health risks) and substantially more severe cumulative air quality impacts (criteria air pollutants during operation) than what was analyzed in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with cumulative air quality impacts (CEQA Guidelines Section 15091(a)(3)).

8. Impact C-GHG-1: Implementation of the Metro Plan would result in new cumulative greenhouse gas emissions impacts that were not identified in the Certified EIR.

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in cumulative GHG emissions is discussed on pages 4-11 through 4-12 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measures have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure GHG-1: Require Implementation of BAAQMD-Recommended Construction Best Management Practices

All applicants within the Metro Plan Area shall require their contractors, as a condition of contracts, to reduce construction-related GHG emissions by implementing BAAQMD's recommended BMPs, including the following measures (based on BAAQMD's 2017 CEQA Guidelines):

- Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.
- Use at least 10 percent local building materials (sourced from within 100 miles of the Metro Plan Area).
- Recycle and reuse at least 50 percent of construction waste or demolition materials.

Mitigation Measure GHG-2: Implement Operational GHG Reduction Measures or Their Equivalent

Applicants of future projects within the Metro Plan Area shall implement the following operational GHG emissions reduction strategies where feasible or demonstrate why a measure is not feasible, and implement equivalent GHG reductions to the foregone measure, or pay a mitigation fee per Mitigation Measure GHG-3 (see below) to compensate for any foregone GHG reductions not implemented. Applicants of future projects that do not propose to implement all of the strategies described below shall prepare a feasibility study outlining why the declined strategies were not implemented (e.g., feasibility, not applicable, etc.), estimating the foregone GHG reductions, and identifying any equivalent GHG reduction measures proposed (or proposal to pay a mitigation fee instead) for the City's review and concurrence prior to the issuance of building permits.

- **LEED Certification.** The United States Green Building Council (USGBC) is a private 501(c)3, non-profit organization that promotes sustainability in building design, construction, and operation. The USGBC developed the LEED program, which provides a rating system that awards points for new construction based on energy use, materials, water efficiency, and other sustainability criteria. LEED has certification systems for both commercial and residential use.

While LEED allows some flexibility in choice of measures to meet LEED criteria, new construction shall be required to include specific committed measures in use of recycled and sustainable materials in construction, water efficiency, and efficiency of energy use. New development in the Metro Plan Area shall be required to achieve LEED Silver certification or equivalent, or a higher certification, or provide equivalent GHG reductions through proposed new measures or payment of a fee per Mitigation Measure GHG-3.

- **Natural Gas Infrastructure.** Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.
- **Solar Roofs.** Mounted rooftop electricity-generating solar panels convert solar energy to electricity for use in commercial and residential buildings.

New construction in the Metro Plan Area shall be required to either employ solar roofs on at least 30 percent of roof square footage or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of solar roofs may be part of meeting LEED Silver or equivalent requirements.

- **Waste Minimization Programs.** For waste that is generated by non-residential uses, recycling, composting of food waste and other organics, and the use of reusable products instead of disposal products diverts solid waste from the landfill stream.

New non-residential uses in the Metro Plan Area shall be required to implement recycling (including organics recycling) and reusable product use programs or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of these measures may be part of meeting LEED Silver or equivalent requirements.

Mitigation Measure GHG-3: Purchase GHG Mitigation Credits

Where a future project in the Metro Plan Area does not propose to implement all of the GHG reduction measures in Mitigation Measure GHG-2 and does not propose equivalent reduction measures to compensate for the measures not implemented, the project applicant shall be required to pay on a pro rata basis for net operational GHG emissions to compensate for emissions foregone from not implementing all measure in Mitigation Measure GHG-2 or providing equivalent reductions.

Applicants may purchase GHG credits from a voluntary GHG credit provider² that has an established protocol that requires projects generating GHG credits to demonstrate that the reduction of GHG emissions are real, permanent, quantifiable, verifiable, enforceable, and additional (per the definition in California Health and Safety Code Sections 38562(d)(1) and (2)). Definitions for these terms are as follows.

- **Real:** Estimated GHG reductions should not be an artifact of incomplete or inaccurate emissions accounting. Methods for quantifying emission reductions should be conservative to avoid overstating a project's effects. The effects of a project on GHG emissions must be comprehensively accounted for, including unintended effects (often referred to as "leakage"). To ensure that GHG reductions are real, the reduction must be a direct reduction within a confined project boundary.
- **Additional:** GHG reductions must be additional to any that would have occurred in the absence of the Climate Action Reserve, or of a market for GHG reductions generally. "Business as usual" reductions (i.e., those that would occur in the absence of a GHG reduction market) should not be eligible for registration.
- **Permanent:** To function as offsets to GHG emissions, GHG reductions must effectively be "permanent." This means, in general, that any net reversal in GHG reductions used to offset emissions must be fully accounted for and compensated through the achievement of additional reductions.
- **Quantifiable:** GHG reductions or GHG removal enhancements must be able to be accurately measured and calculated relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage.
- **Verified:** GHG reductions must result from activities that have been verified. Verification requires third-party review of monitoring data for a project to ensure the data are complete and accurate.
- **Enforceable:** The emission reductions from offset must be backed by a legal instrument or contract that defines exclusive ownership and the legal instrument can be enforced within the legal system in the country in which the offset project occurs or through other compulsory means. Please note that per this mitigation measure, only credits originating within the United States are allowed.

GHG credits must also meet the following requirements:

- GHG credits may be in the form of GHG offsets for prior reductions of GHG emissions verified through protocols or forecasted mitigation units for future committed GHG emissions meeting protocols.
- All credits shall be documented per protocols functionally equivalent in terms of stringency to CARB's protocol for offsets in the cap and trade program. The

² Examples of potential GHG credit sources include the Climate Action Reserve Voluntary Offset Registry and Climate Forward program, the American Carbon Registry, or other providers using the Verified Carbon Standard.

applicant must provide the protocols from the credit provider and must document why the protocols are functionally equivalent.

- Applicants shall identify GHG credits in geographies closest to Santa Clara County first and only turn to larger geographies (i.e., California, United States, global) if adequate credits cannot be found in closer geographies, or the procurement of such credits would create an undue financial burden. Applicants shall provide the following justification for not using credits in closer geographies in terms of either availability or cost prohibition:
 - Lack of enough credits available in closer geographies.
 - Prohibitively costly credits in closer geographies are defined as credits costing more than 300 percent the amount of the current costs of credits in the regulated CARB offset market.
 - Documentation submitted supporting GHG credit proposals shall be prepared by individuals qualified in GHG credit development and verification and such individuals shall certify the following: (1) proposed credits meet the definitions for the criteria provided in this measure; and (2) the protocols used for the credits meet or exceed the standards for stringency used in CARB protocols for offsets under the California cap-and-trade system.

This mitigation includes the following specific requirements for applicants of future projects within the Metro Plan Area:

- Applicants shall provide the City with a 30-year operational GHG emissions estimate for the final design that includes two scenarios: (1) project operations including all Mitigation Measure GHG-2 reduction measures; and (2) project operations only including those Mitigation Measure GHG-2 reduction measures the applicant proposes to implement and any alternative GHG reduction measures proposed by the applicant. The emissions estimate can be focused exclusively on the sectors where Mitigation Measure GHG-2 measures will not be fully implemented. The difference between the Scenario 1 and Scenario 2 operational emissions will define the amount of needed annual GHG reductions to be addressed through purchase of GHG mitigation credits. The City shall review the emission estimates to ensure they are representative and determine the total amount of annual GHG emissions required to be addressed through purchase of mitigation credits.

Applicants shall purchase GHG mitigation credits meeting the above requirements and provide documentation to the City of how the credits meet the above requirements. Applicants shall provide the City with documentation of the retirement of sufficient GHG credits to meet the annual GHG reduction amount prior to January 1 of each calendar year for the following year. This requirement shall apply to operations for up to 30 years. Applicants may purchase credits up front or in advance as they choose.

(c) Finding: Based on the SEIR and the record before the Council, the Council finds that:

- (1) Effects of Mitigation and Remaining Impacts:** As described on pages 4-11 through 4-12 of the draft SEIR, climate change is a global problem, and GHGs are global pollutants, unlike criteria air pollutants (e.g., ozone precursors), which are primarily pollutants of regional and local concern. Given the long

atmospheric lifetimes, GHGs emitted by sources worldwide accumulate in the atmosphere. No single emitter of GHGs is large enough to trigger global climate change on its own. Rather, climate change is the result of the individual contributions of countless past, present, and future sources. Therefore, GHG emissions impacts are inherently cumulative. As described for Impact GHG-1, GHG impacts would be considered significant and unavoidable. Accordingly, cumulative GHG impacts would also be considered significant and unavoidable.

The Certified EIR concluded that cumulative GHG impacts would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would have a significant and unavoidable cumulative GHG impact. The Project Change would result in new cumulative GHG impacts than what was analyzed in the Certified EIR.

- (2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with cumulative GHG emissions (CEQA Guidelines Section 15091(a)(3)).

9. Impact C-NOI-1: Implementation of the Metro Plan would result in new cumulative noise impacts that were not identified in the Certified EIR (construction noise).

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in a cumulatively considerable contribution to a significant cumulative noise is discussed on pages 4-16 through 4-19 of the draft SEIR.
- (b) **Mitigation Measures:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measure have been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure NOI-2: Protect Potentially Susceptible Structures from Construction-Generated Vibration

If a future development project in the Metro Plan requires any of the following construction activities, then this measure would apply:

- Pile driving within approximately 100 feet of an existing structure.
- Construction with other ground-disturbing equipment (e.g., jackhammers, bulldozers, excavators, etc.) within 25 feet of an existing structure.

The construction contractor shall consult with the City to determine whether adjacent or nearby structures could be adversely affected by construction-generated vibration. If buildings adjacent to construction activity are identified that could be adversely affected, the project applicant will incorporate into construction specifications for their project a requirement that the construction contractor(s) use all feasible means to avoid damage to adjacent and nearby buildings. Such methods to help reduce vibration-related damage effects may include maintaining a safe distance between the construction site and the potentially affected building (e.g., at

least 100 feet for “historic and some old buildings”) or using “quiet” pile-driving technologies (such as predrilling piles or using sonic pile drivers).

Should pile driving be required within 100 feet of a building in the “historic or some old building” category, within 75 feet of buildings in the “older residential structures” category, and within 55 feet of buildings in the “modern industrial/commercial” category, the City will work with the construction contractor to implement a monitoring program to minimize damage to adjacent buildings and ensure that any such damage is documented and repaired. If required, the monitoring program will include the following components:

- Prior to the start of any ground-disturbing activity, the project applicant will engage a historic architect or qualified historic preservation professional to undertake a preconstruction survey of nearby affected buildings that may be considered historic. For buildings that are not potentially historic, a structural engineer or other professional with similar qualifications will document and photograph the existing conditions of potentially affected buildings within 100 feet of pile-driving activity.
- Based on the construction and condition of the resource(s), the consultant will also establish a standard maximum vibration level that will not be exceeded at any building, based on existing conditions, character-defining features, soil conditions, and anticipated construction practices. Common standards are a peak particle velocity of 0.25 inch per second for “historic and some old buildings,” a peak particle velocity of 0.3 inch per second for “older residential structures,” and a peak particle velocity of 0.5 inch per second for “new residential structures” and “modern industrial/commercial buildings,” as shown in Table 3.4-2.
- To ensure that vibration levels do not exceed the established standard, the project applicant will monitor vibration levels at each structure and prohibit vibratory construction activities that generate vibration levels in excess of the standard.
- Should vibration levels be observed in excess of the selected standard, construction will be halted, and alternative construction techniques put in practice, to the extent feasible (e.g., predrilled piles could be substituted for driven piles, if feasible, based on soil conditions, or smaller, lighter equipment could be used in some cases).
- The historic preservation professional (for effects on historic buildings) and/or structural engineer (for effects on non-historic structures) will conduct regular periodic inspections (every 3 months) of each building during ground-disturbing activity on the project site. Should damage to any building occur, the building(s) will be remediated to their preconstruction condition at the conclusion of ground-disturbing activity on the site.

Mitigation Measure NOI-3: Implement Nighttime Construction Vibration Control Plan to Reduce Vibration-Related Annoyance Impacts on Adjacent Land Uses

Should vibration-generating construction activities for future development under the Metro Plan be proposed outside of the daytime hours of 7:00 a.m. to 7:00 p.m., and should non-pile driving equipment be proposed within 25 feet of occupied residences or buildings where people sleep, the construction contractor for a project in the Metro Plan Area shall develop a nighttime construction vibration control plan. In addition, should nighttime pile driving activities be proposed within 100 feet of such buildings, the construction contractor for a project in the Metro Plan Area shall similarly develop a

nighttime construction vibration control plan. The construction vibration control plan shall demonstrate that vibration levels at the residential land uses during nighttime hours will not exceed 0.1 PPV in/sec.

In addition, the construction contractor will appoint a project vibration coordinator who will serve as the point of contact for vibration-related complaints during project construction. The contact information for the project vibration coordinator shall be posted at the project site and on a publicly available project website for future development projects under the Metro Plan. Should residents in the project area submit complaints to the project vibration coordinator for nighttime construction vibration concerns, the project vibration coordinator shall work with the construction team to adjust activities to reduce vibration or to reschedule activities for a less sensitive time.

(c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that:

(1) **Effects of Mitigation and Remaining Impacts:** As discussed on pages 4-17 and 4-19 of the draft SEIR, direct impacts related to construction noise were determined to be significant and unavoidable. Similarly, construction noise from individual Metro Plan projects could combine with construction noise from other Metro Plan projects or Milpitas Gateway-Main Street Specific Plan project to result in a cumulative construction noise impact. Because concurrent construction of multiple projects could expose individual receivers located between two Metro Plan projects to greater construction noise levels than would be experienced from either project alone, because concurrent construction of multiple projects could expose individual receivers located between a Metro Plan project and a Milpitas Gateway-Main Street Specific Plan project to greater construction noise levels than would be experienced from either project alone, and because direct construction noise impacts would be considered significant and unavoidable, cumulative construction noise impacts would also be significant and unavoidable.

The Certified EIR concluded that cumulative impacts related to noise would be less than significant. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would have a significant and unavoidable cumulative noise impact, related to cumulative construction noise impacts. The Project Change would result in a new significant and unavoidable construction noise impact compared to what was analyzed in the Certified EIR.

(2) **Overriding Considerations:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, override the remaining significant adverse impact of the Metro Plan associated with cumulative construction noise (CEQA Guidelines Section 15091(a)(3)).

IV. Findings for Significant Effects that Can be Mitigated to Less than Significant

The following findings are made for significant effects in the SEIR that can be mitigated to less than significant.

A. Air Quality

1. **Impact AQ-3: Implementation of the Metro Plan would result in a new significant air quality impact that was not identified in the Certified EIR related to exposing sensitive receptors to substantial pollutant concentrations (construction-related fugitive dust emissions).**

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in exposure of sensitive receptors to substantial concentration of fugitive dust is described on page 3.1-26 of the draft SEIR.
- (b) **Mitigation Measure:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measure has been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure AQ-5: Require Fugitive Dust Best Management Practices

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material offsite will be covered.
 - All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph).
 - All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
 - A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.
- (c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that changes or alterations have been required in, or incorporated into, the Metro Plan that

would avoid or substantially lessen the significant environmental effect identified in the SEIR (CEQA Guidelines Section 15091(a)(1)). As described on pages 3.1-26 and 3.128 of the draft SEIR, during grading and excavation activities associated with construction, localized fugitive dust would be generated. The amount of dust generated by a project is highly variable and dependent on the size of the disturbed area at any given time, the amount of activity, soil conditions, and meteorological conditions. BAAQMD's CEQA air quality guidelines consider dust impacts to be less than significant if BAAQMD's construction BMPs are employed to reduce such emissions. Because BAAQMD's Basic Construction Mitigation Measures would be implemented, per Mitigation Measure AQ-5, construction-related fugitive dust emissions would be less than significant and would not expose receptors to substantial pollutant concentrations or risks.

The Certified EIR concluded that, after implementation of policies included in the TASP, impacts related to exposing sensitive receptors to substantial toxic air contaminants would be less than significant. Based on the analysis above, with incorporation of the Project Change and Mitigation Measure AQ-5, the Metro Plan would have a less-than-significant effect with regard to exposing sensitive receptors to fugitive dust during construction. Thus, the Project Change would result in a change to the Certified EIR's impact determination with regard to exposing sensitive receptors to substantial fugitive dust concentrations. The Project Change would result in a new significant impact that was not identified in the Certified EIR, but the impact would be less than significant with Mitigation Measure AQ-5.

B. Noise

1. **Impact NOI-2: Operation of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to generating a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.**

- (a) **Potential Impact:** The potential for operation of the Metro Plan to result in a substantial temporary or permanent increase in ambient noise levels in excess of standards in the general plan or noise ordinance is discussed at pages 3.4-19 through 3.4-27 of the draft SEIR.
- (b) **Mitigation Measure:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measure has been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure NOI-1: Mechanical Equipment Noise Reduction Plan

To reduce potential noise impacts resulting from mechanical equipment (including but not limited to HVAC equipment and emergency generators), the applicants of future projects under the Metro Plan shall conduct a noise analysis to estimate noise levels of project-specific mechanical equipment. The noise analysis shall be based on the selected equipment models and design features. The applicant for the project shall create a Noise Reduction Plan to ensure noise levels of equipment, once installed, are below the applicable criteria described below.

The Noise Reduction Plan shall include any necessary noise reduction measures required to reduce project-specific mechanical equipment noise to a less-than-significant level. The plan shall also demonstrate that with the inclusion of selected measures, noise from equipment would be below the significance thresholds. Feasible noise reduction measures to reduce noise below the significance thresholds include, but are not limited to, selecting quieter equipment, utilizing silencers and acoustical equipment at vent openings, siting equipment farther from the roofline, and/or enclosing all equipment in a mechanical equipment room designed to reduce noise. Regarding emergency generators, additional noise reduction options include, but are not limited to, installing quieter model generators, incorporating noise-reducing emergency generator weather enclosures, and installing exhaust mufflers or silences. The results of the noise analysis and the final Noise Reduction Plan shall be provided to the City prior to the issuance of building permits.

The noise analysis and Noise Reduction Plan shall be prepared by persons qualified in acoustical analysis and/or engineering. The Noise Reduction Plan shall demonstrate with reasonable certainty that noise from mechanical equipment selected for the project, including the attenuation features incorporated into the project design, will not exceed the City of Milpitas property plane thresholds of 55 dBA during daytime hours or 45 dBA during nighttime hours for nearby residential land uses.

The applicants of future projects under the Metro Plan shall incorporate all feasible methods to reduce noise and any other feasible recommendations from the acoustical analysis and Noise Reduction Plan into the building design and operations, as necessary, to ensure that noise sources meet applicable requirements of the respective noise ordinances at receiving properties.

- (c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that changes or alterations have been required in, or incorporated into, the Metro Plan that would avoid or substantially lessen the significant environmental effect identified in the SEIR (CEQA Guidelines Section 15091(a)(1)). As described on pages 3.4-24 through 3.4-27 of the draft SEIR, the Metro Plan does not include policies related to mechanical equipment noise. However, General Plan Policies N 1-1, N 1-2, N 1-4, N 1-5, and N 1-6 would help reduce the effects of mechanical equipment noise on nearby sensitive uses. For example, Policy N 1-1 requires that the noise compatibility of existing and future development be considered when making land use planning decisions and requires that development projects ensure consistency with land use compatibility standards outlined in the General Plan Tables N-1 and N-2. Implementation of Mitigation Measure NOI-1 requires the applicants of future projects under the Metro Plan to conduct a noise analysis to estimate noise levels of project-specific mechanical equipment and implement measures to ensure noise levels are below allowable limits. With the implementation of Mitigation Measure NOI-1, operational impacts due to operational mechanical equipment would be reduced to less than significant with mitigation. The Certified EIR did not make a determination regarding noise from operational equipment associated with the TASP. Based on the analysis above, with incorporation of the Project Change, the Metro Plan would result in a significant noise impact from operational equipment that would be reduced to a less-than-significant level with Mitigation Measure NOI-1.

2. Impact C-NOI-1: Implementation of the Metro Plan would result in new cumulative noise impacts that were not identified in the Certified EIR (mechanical equipment noise).

- (a) **Potential Impact:** The potential for implementation of the Metro Plan to result in a cumulatively considerable contribution to a significant cumulative noise is discussed on pages 4-16 through 4-19 of the draft SEIR.
- (b) **Mitigation Measure:** Pursuant to CEQA Guidelines Section 15091, the following mitigation measure has been included in the MMRP that is to be adopted concurrently with these findings.

Mitigation Measure NOI-1: Mechanical Equipment Noise Reduction Plan

To reduce potential noise impacts resulting from mechanical equipment (including but not limited to HVAC equipment and emergency generators), the applicants of future projects under the Metro Plan shall conduct a noise analysis to estimate noise levels of project-specific mechanical equipment. The noise analysis shall be based on the selected equipment models and design features. The applicant for the project shall create a Noise Reduction Plan to ensure noise levels of equipment, once installed, are below the applicable criteria described below.

The Noise Reduction Plan shall include any necessary noise reduction measures required to reduce project-specific mechanical equipment noise to a less-than-significant level. The plan shall also demonstrate that with the inclusion of selected measures, noise from equipment would be below the significance thresholds. Feasible noise reduction measures to reduce noise below the significance thresholds include, but are not limited to, selecting quieter equipment, utilizing silencers and acoustical equipment at vent openings, siting equipment farther from the roofline, and/or enclosing all equipment in a mechanical equipment room designed to reduce noise. Regarding emergency generators, additional noise reduction options include, but are not limited to, installing quieter model generators, incorporating noise-reducing emergency generator weather enclosures, and installing exhaust mufflers or silences. The results of the noise analysis and the final Noise Reduction Plan shall be provided to the City prior to the issuance of building permits.

The noise analysis and Noise Reduction Plan shall be prepared by persons qualified in acoustical analysis and/or engineering. The Noise Reduction Plan shall demonstrate with reasonable certainty that noise from mechanical equipment selected for the project, including the attenuation features incorporated into the project design, will not exceed the City of Milpitas property plane thresholds of 55 dBA during daytime hours or 45 dBA during nighttime hours for nearby residential land uses.

The applicants of future projects under the Metro Plan shall incorporate all feasible methods to reduce noise and any other feasible recommendations from the acoustical analysis and Noise Reduction Plan into the building design and operations, as necessary, to ensure that noise sources meet applicable requirements of the respective noise ordinances at receiving properties.

- (c) **Finding:** Based on the SEIR and the record before the Council, the Council finds that changes or alterations have been required in, or incorporated into, the Metro Plan that would avoid or substantially lessen the significant environmental effect identified in the SEIR (CEQA Guidelines Section 15091(a)(1)). As described on draft SEIR page 4-18 regarding the potential for mechanical equipment noise from future individual Metro Plan projects to combine with mechanical equipment noise from other future Metro Plan projects, the specific locations and equipment details for future projects are not known at this time. However, it is possible that equipment noise from multiple future Metro Plan projects could be located close enough to one another to combine, and to expose individual receptors to greater noise levels than they would experience from one project alone. Cumulative impacts from Metro Plan mechanical equipment noise would be considered significant.

With implementation of Metro Plan Mitigation Measure NOI-1, which requires the applicants of future Metro Plan projects to implement measures to ensure mechanical equipment noise levels are below allowable limits, impacts from mechanical equipment noise would be reduced to below the allowable levels. Cumulative mechanical equipment noise impacts would be less than significant with mitigation. The Certified EIR concluded that cumulative impacts related to noise would be less than significant. Based on the analysis above, the Project change would have a less than significant with mitigation cumulative impact related to operational mechanical equipment noise.

V. Findings Regarding Impacts that are Less than Significant, Less than Cumulatively Considerable, or Have No Impact

The City makes the following findings pursuant to and in accordance with PRC Sections 21081, 21081.5, and 21081.6. The City prepared an Initial Study to identify the environmental resources for which the Project Change would not result in new significant impacts nor substantially more severe impacts than disclosed in the Certified EIR. The Initial Study, which is included as Appendix B of the draft SEIR, found that the Project Change would not result in new significant impacts nor substantially more severe impacts than disclosed in the Certified EIR, for the following environmental resources:

- Aesthetics
- Agricultural and Forestry Resources
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality

- Mineral Resources
- Tribal Cultural Resources
- Wildfire

In the SEIR, it was determined the Metro Plan would not result in a potentially significant impact for the following criteria:

- **Impact AQ-1 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to conflicting with or obstructing implementation of an applicable air quality plan.
- **Impact AQ-4 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than those identified in the Certified EIR related to creating objectionable odors affecting a substantial number of people.
- **Impact LU-1 (no impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to physically dividing an established community.
- **Impact LU-2 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to causing a significant environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.
- **Impact NOI-4 (no impact):** The Metro Plan would not result in a new or substantially more severe impact than what was identified in the Certified EIR related to being located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, and exposing people residing or working in the project area to excessive noise levels.
- **Impact POP-1 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to inducing substantial unplanned population growth in an area, either directly or indirectly.
- **Impact POP-2 (no impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to displacing substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.
- **Impact PS-1 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to substantial adverse physical impacts associated with the provision of new or physically altered schools or the need for new schools.
- **Impact PS-4 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to substantial adverse physical impacts associated with the provision of new or physically altered parks or the need for new parks; related to the increased use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or including recreational facilities or

requiring the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

- **Impact TR-1 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to conflicting with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.
- **Impact TR-2 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to conflicting or being inconsistent with Guidelines Section 15064.3, subdivision (b).
- **Impact TR-3 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to substantially increasing hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
- **Impact TR-4 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to resulting in inadequate emergency access.
- **Impact UTIL-1 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to requiring or resulting in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which would cause significant environmental effects.
- **Impact UTIL-2 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to having sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years.
- **Impact UTIL-3 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to resulting in a determination by the wastewater treatment provider which serves or may serve the project it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- **Impact UTIL-4 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to generating solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.
- **Impact UTIL-5 (less-than-significant impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to complying with federal, state, and local management and reduction statutes and regulations related to solid waste.

For cumulative resources, the SEIR concluded the Metro Plan would have no impact on agriculture and forestry resources, mineral resources, tribal cultural resources, or wildfire. Because the Metro Plan would have no impact on these environmental resources, the Metro Plan would not contribute

to any cumulative impact. The conclusions for the remainder of cumulative impacts that were found to have a less-than-cumulatively-considerable contribution or for where there was no significant cumulative impact are:

- **Impact C-AES-1 (less-than-cumulatively-considerable contribution):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative aesthetics impacts.
- **Impact C-BIO-1 (less-than-cumulatively-considerable contribution):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative biological resources impacts.
- **Impact C-CUL-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative cultural resources impacts.
- **Impact C-EN-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to energy impacts.
- **Impact C-GEO-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative geology and soils impacts.
- **Impact C-HAZ-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative hazards and hazardous materials impacts.
- **Impact C-LU-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative land use impacts.
- **Impact C-POP-1 (less-than-cumulatively-considerable contribution):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative population and housing impacts.
- **Impact C-TR-1 (less-than-cumulatively-considerable contribution):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to cumulative transportation impacts.
- **Impact C-UTIL-1 (less-than-significant cumulative impact):** Implementation of the Metro Plan would not result in new or substantially more severe impacts than what was identified in the Certified EIR related to utilities and service systems impacts for all facilities except the future reservoir and pump stations.

No additional findings are required for these environmental resource areas.

VI. Mitigation Monitoring and Reporting Program

As referenced above in the findings, an MMRP has been prepared for the Metro Plan and has been adopted concurrently with these findings (PRC Section 21081.6(a)(1); Guidelines Section 15097). The City will use the MMRP to track compliance with mitigation measures.

VII. Alternatives

A. Identification of Project Objectives

CEQA requires that an EIR identify a “range of potential alternatives to the project [which] shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects.” Chapter 2.0 of the draft SEIR identifies the Project’s goals and objectives. The City is proposing the Project Change in order to achieve the following objectives:

1. To enhance the sense of place and identity of the Metro Plan Area with visually memorable structures and buildings.
2. To provide safer and more attractive multimodal connections for walking and biking.
3. To provide a greater variety of shared public spaces.
4. To expand neighborhood services and the variety of retail.
5. To create and expand available space for jobs near transit.
6. To provide both affordable and market-rate housing.

B. Alternatives Analysis in the SEIR

The following two alternatives to the Proposed Project Change are analyzed in the SEIR.

- **Reduced Height Alternative.** The Reduced Height Alternative places a height restriction across the Metro Plan Area that limits building heights to 75 feet, which would reduce the additional projected dwelling units by 1,000 units and the additional office space by approximately 500,000 square feet compared to the proposed Metro Plan.
- **Removal of Western Expansion Area Alternative.** The Removal of Western Expansion Area would remove the western expansion area from the Metro Plan Area and reduce the additional projected dwelling units by 500 units, compared to the proposed Metro Plan.

As required by CEQA, the SEIR also identified a No Project Alternative. It assumes full buildout of the TASP, as disclosed in the Certified EIR.

1. No Project Alternative

The No Project Alternative is discussed on pages 5-6 through 5-7 and 5-10 through 5-14 of the draft SEIR. The No Project Alternative assumes that the Metro Plan would not be implemented and that the TASP would be the governing Specific Plan. The No Project Alternative assumes full buildout of the TASP, as disclosed in the Certified EIR. This includes the remaining development of only a few hundred of the 7,109 residential units, approximately 980,000 of the 993,843 square feet of office

space, just over 100,00 of the 287,075 square feet of retail space, and over 200 of the 350 hotel rooms to complete the Plan.

Under the No Project Alternative, the City would continue to experience the need for additional housing, including the need to fulfill its Regional Housing Needs Allocation (RHNA) obligations. Under the No Project Alternative, the City would not plan for additional housing beyond that already allowed in the TASP. The No Project Alternative, therefore, assumes that the City would plan for housing elsewhere in the City in order to fulfill its RHNA obligations. The City's 6th cycle RHNA is 6,713 housing units between 2023 and 2031; the RHNA is also stratified by housing for specific income levels. To address the RHNA, the City must update its Housing Element to demonstrate where this level of housing can be built and to identify the strategies to meet the RHNA obligation. The sites selected for housing must be realistic accounting for elements such as dimensions of parcels, existing use of sites, economic considerations, environmental factors, and other considerations. The housing units in the Project Change would count toward both the prior cycle RHNA and 6th Cycle RHNA. Therefore, if the Project Change is not approved, the City would have to plan for housing units elsewhere in the City to meet its RHNA obligations. Additionally, aside from the City's RHNA obligations, there is a crisis related to housing affordability in the Bay Area that in part is related to a need for more housing. Therefore, it is reasonable to assume that a reduction in units built in the City, regardless of RHNA requirements, would result in housing planned for and constructed elsewhere. However, it cannot currently be known where those housing units may be located or what the characteristics of those units (e.g., density, height, etc.) would be.

The No Project Alternative also assumes full buildout of the 2040 General Plan, which otherwise relies upon the Metro Plan Area to provide more housing opportunities and specifically calls for development of an Innovation District in the area east of the Milpitas Transit Center. Because the No Project Alternative would not build any of the development or infrastructure associated with the Metro Plan, the No Project Alternative does not meet any of the Project Change objectives.

- (a) **Finding:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, make the No Project Alternative infeasible (CEQA Guidelines Section 15091(a)(3)).
- (b) **Explanation:** The No Project Alternative is rejected as an alternative because it would not achieve the Project Change objectives and is therefore infeasible. This alternative would not realize the benefits of the Metro Plan and fails to achieve the Project Change objectives. The No Project Alternative would not achieve some of the environmental benefits associated with the Metro Plan. The housing units in the Project Change would count toward both the prior cycle RHNA and 6th Cycle RHNA. Therefore, if the Project Change is not approved, the City would have to plan for housing units elsewhere in the City to meet its RHNA obligations. Additionally, aside from the City's RHNA obligations, there is a crisis related to housing affordability in the Bay Area that in part is related to a need for more housing, and denying the project would not help address housing affordability. Because the No Project Alternative would not build any of the housing uses near transit, the No Project Alternative is also expected to have less of a reduction in vehicle miles traveled (VMT) than the proposed Metro Plan.

The reduction in housing units under the No Project Alternative would likely result in planning and construction of housing elsewhere. However, it cannot currently be known where those housing units may be located or what the characteristics of those units (e.g.,

density, height, etc.) would be, such that specific impacts could not be evaluated. However, generally speaking, it is possible that the No Project Alternative might also have greater impacts on land use than the proposed Metro Plan because these alternatives could require planning for housing units elsewhere in the City to meet RHNA obligations and could exacerbate existing housing shortages more generally, resulting in development of housing elsewhere. Other locations within the City would not be located near the BART station and are thus unlikely to have the same transit-oriented development benefits as the proposed Metro Plan. Residents and workers that could have lived in the Metro Plan Area may instead live somewhere where average VMT is higher. Therefore, the alternatives may have a less beneficial impact on VMT than the proposed Metro Plan. The No Project Alternative could also result in population growth either elsewhere in the City or outside the City that might be unaccounted for in other jurisdictions' planning.

2. Reduced Height Alternative

The Reduced Height Alternative is discussed on pages 5-7 through 5-8 and 5-14 through 5-20 of the draft SEIR. The Reduced Height Alternative would place a height restriction across the Metro Plan Area that otherwise would allow substantial heights (in some cases up to 8 floor, 18 floors or 275 feet in certain residential and commercial land use categories,) but limits building heights to 75 feet. This restriction would reduce the additional projected dwelling units by 1,000 units compared to the proposed Metro Plan. About 500 fewer units would be projected at both Great Mall and the Tango District. This alternative would also reduce office space by about 500,000 square feet compared to the proposed Metro Plan by reducing the square footage projected for the Innovation District. Projected retail space and hotel rooms would remain the same as projected under the proposed Metro Plan. Under this Alternative, it is expected that the infrastructure improvements identified in the Metro Plan (i.e., circulation, open space, utilities) would remain the same and that the policies in the Metro Plan related to sustainability (i.e., electric buildings, transportation demand management (TDM), low-flow fixtures etc.) would also be the same.

- (a) **Finding:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, make the Reduced Height Alternative infeasible (CEQA Guidelines Section 15091(a)(3)).
- (b) **Explanation:** This alternative would meet all six Project Change objectives. However, it would meet Objective 5 (to create and expand available space for jobs near transit) to a lesser extent than the proposed Metro Plan because it would reduce by 25 percent the amount of office square footage in the Innovation District. Similarly, this alternative would meet Objective 6 (to provide both affordable and market-rate housing) to a lesser extent than the proposed Metro Plan because it would reduce the dwelling unit capacity in the Metro Plan Area.

It would also reduce the amount of housing set aside in the RHNA for this cycle of the Housing Element. The reduction in housing units under the Reduced Height Alternative would likely result in planning and construction of housing elsewhere. However, it cannot currently be known where those housing units may be located or what the characteristics of those units (e.g., density, height, etc.) would be, such that specific impacts cannot be evaluated. However, generally speaking, it is possible that the Reduced Height Alternative might also have greater impacts on land use than the

proposed Metro Plan because these alternatives could require planning for housing units elsewhere in the City to meet RHNA obligations and could exacerbate existing housing shortages more generally, resulting in development of housing elsewhere. Other locations within the City would not be located near the BART station and are thus unlikely to have the same transit-oriented development benefits as the proposed Metro Plan. Residents and workers that could have lived in the Metro Plan Area may instead live somewhere where average VMT is higher. Therefore, the alternative may have a less beneficial impact on VMT than the proposed Metro Plan. The Reduced Height Alternative could also result in population growth either elsewhere in the City or outside the City that might be unaccounted for in other jurisdictions' planning.

3. Removal of Western Expansion Area Alternative

The Removal of Western Expansion Area Alternative is discussed on pages 5-8 through 5-9 and 5-20 through 5-27 of the draft SEIR. This alternative would remove the western expansion area from the Metro Plan Area. This restriction could reduce the additional projected dwelling units by 500 units compared to the proposed Metro Plan. Projected office space, retail space, and hotel rooms would remain the same as projected under the proposed Metro Plan. Under this Alternative, it is expected that the infrastructure improvements identified in the Metro Plan (i.e., circulation, open space, utilities) would remain the same and that the policies in the Metro Plan related to sustainability (i.e., electric buildings, TDM, low-flow fixtures etc.) would also be the same.

- (a) **Finding:** The environmental, economic, social, and other benefits of the Metro Plan, as described in detail in the Statement of Overriding Considerations, make the Removal of Western Expansion Area Alternative infeasible (CEQA Guidelines Section 15091(a)(3)).
- (b) **Explanation:** This alternative would meet all six Project Change objectives. However, it would meet Objective 6 (to provide both affordable and market-rate housing) to a lesser extent than the proposed Metro Plan because it would reduce the dwelling unit capacity in the Metro Plan Area.

It would reduce the amount of housing set aside in the RHNA for this cycle of the Housing Element because the Metro Plan includes incentive to build additional units. A reduction in housing units under the Removal of Western Expansion Area Alternative would likely result in planning and construction of housing elsewhere. However, it cannot currently be known where those housing units may be located or what the characteristics of those units (e.g., density, height, etc.) would be, such that specific impacts cannot be evaluated. However, generally speaking, this Alternative might also have greater impacts on land use than the proposed Metro Plan because these alternatives could require planning for housing units elsewhere in the City to meet RHNA obligations and could exacerbate existing housing shortages more generally, resulting in development of housing elsewhere. Other locations within the City would not be located near the BART station and are thus unlikely to have the same transit-oriented development benefits as the proposed Metro Plan. Residents and workers that could have lived in the Metro Plan Area may instead live somewhere where average VMT is higher. Therefore, the alternative may have a less beneficial impact on VMT than the proposed Metro Plan. The Removal of Western Expansion Area Alternative could also result in population growth either elsewhere in the City or outside the City that might be unaccounted for in other jurisdictions' planning.

4. Environmentally Superior Alternative

CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. If the No Project Alternative is the environmentally superior alternative, an EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). The environmentally superior alternative is that alternative with the least adverse environmental impacts when compared to the proposed project.

As discussed in Section 5.5 of the draft SEIR, the No Project Alternative was identified as superior. Among the other alternatives, the Reduced Height Alternative was concluded to be the environmentally superior alternative as it is expected to have a greater reduction on the impacts of eight environmental topics (air quality, energy, greenhouse gases, noise, population and housing, public services and recreation, and utilities and service systems), when compared to the Removal of Western Expansion Area Alternative. In addition, impacts on three of these environmental topics (air quality, greenhouse gases, noise) would be reductions in the magnitude of significant and unavoidable impacts, although the impact conclusion of significant and unavoidable is expected to be the same for the Metro Plan, Reduced Height Alternative, and the Removal of Western Expansion Area Alternative. In total, the Removal of Western Expansion Area Alternative is expected to have a greater reduction on the impacts of three environmental topics (cultural resources, geology and soils, and hydrology and water quality), when compared to the Reduced Height Alternative. In addition, impacts on these environmental topics (cultural resources, geology and soils, and hydrology and water quality) would be reductions in the magnitude of less-than-significant impacts (after implementation of policies and regulations).

As previously discussed, the Reduced Height Alternative was dismissed as infeasible per CEQA Guidelines Section 15091(a)(c). Additionally, the Removal of Western Expansion Area Alternative, which would be the next environmentally superior alternative after the Reduced Height Alternative, was also dismissed as infeasible per CEQA Guidelines Section 15091(a)(c).

VIII. Statements of Overriding Consideration

Public Resources Code section 21081(b) explains that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. Further, CEQA Guidelines Section 15021(d) explains that “CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.”

Before the adoption of a Statement of Overriding considerations, the City must meet the following requirements in CEQA Guidelines section 15093(b) and (c):

- When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record
- If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

A. Significant Unavoidable Impacts

Based on the information and analysis set forth in the SEIR and reiterated in Section III of these Findings, implementation of the proposed Milpitas Metro Specific Plan would result in the following significant and unavoidable impacts related to air quality, greenhouse gases, and noise:

- **Impact AQ-2a:** Construction of the Metro Plan would result in a new significant air quality impact that was not identified in the Certified EIR related to a cumulatively considerable net increase in any criteria pollutant for which the Project region is classified as a nonattainment area under an applicable federal or state ambient air quality standard.
- **Impact AQ-2b:** Operation of the Metro Plan would result in a substantially more severe significant air quality impact than that identified in the Certified EIR related to a cumulatively considerable net increase in any criteria pollutant for which the Project region is classified as a nonattainment area under an applicable federal or state ambient air quality standard.
- **Impact AQ-3:** Implementation of the Metro Plan would result in a new significant air quality impact that was not identified in the Certified EIR related to exposing sensitive receptors to substantial pollutant concentrations.
- **Impact GHG-1:** Implementation of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to the generation of GHG emissions, either directly or indirectly, that may have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.
- **Impact NOI-1:** Construction of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to generating a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.
- **Impact NOI-2:** Operation of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to generating a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.
- **Impact NOI-3:** Construction of the Metro Plan would result in a new significant impact that was not identified in the Certified EIR related to exposing persons to or generating excessive ground-borne vibration or ground-borne noise levels.

- **Impact C-AQ-1:** Implementation of the Metro Plan would result in new and substantially more severe cumulative air quality impacts that were not identified in the Certified EIR.
- **Impact C-GHG-1:** Implementation of the Metro Plan would result in new cumulative greenhouse gas emissions impacts that were not identified in the Certified EIR.
- **Impact C-NOI-1:** Implementation of the Metro Plan would result in new cumulative construction noise impacts that were not identified in the Certified EIR.

Air Quality

Impact AQ-2a

During construction of a development project, the activity that typically generates the highest NO_x and PM exhaust emissions is the operation of off-road equipment, whereas the activity that typically generates the highest ROG emissions is the application of architectural coatings. Mitigation Measures AQ-1 through AQ-5 would reduce criteria pollutants, while Mitigation Measure AQ-6 would require pollutant offsets. However, because it cannot be concluded that offset programs would always be available in the future at the time and in the amount needed for any given future development, construction air quality impacts were conservatively assumed to be significant and unavoidable.

Impact AQ-2b

Buildout of the Metro Plan has the potential to result in air quality impacts from area, energy, and mobile sources. Area sources would include landscaping equipment, off-gassing (release of VOCs) during the reapplication of architectural coatings, and consumer products (e.g., solvents, cleaning supplies, cosmetics, toiletries). The Metro Plan includes numerous proposed improvements and policies to reduce VMT (Policy M 8), increase energy efficiency (Policy CB 7.2), and reduce energy consumption (Policy CB 7.2). Several policies further support the maintenance and expansion of the transportation network to enhance connectivity, accessibility, and safety (see Policy M 5, Policy M 6, and Policy M 7). Implementation of Mitigation Measure AQ-7 and Mitigation Measure AQ-8 would help ensure that the individual developments within the City would not contribute a significant level of air pollution such that regional air quality within the Basin would be degraded. However, because it cannot be concluded that offset programs would always be available in the future at the time and in the amount needed for any given future development, operational air quality impacts are conservatively assumed to be significant and unavoidable.

Impact AQ-3

Construction emissions resulting from individual projects developed under the Metro Plan could exceed BAAQMD's regional ROG, NO_x, and PM thresholds. Mitigation Measures AQ-1 through AQ-6 would reduce regional emissions of ROG, NO_x, and PM below BAAQMD's regional thresholds (assuming offset programs are available in the future). Similarly, long-term operation of development under the Metro Plan would result in an increase of criteria pollutant emissions. Mitigation Measure AQ-7 and Mitigation Measure AQ-8 would reduce regional emissions of ROG, NO_x, and PM of individual projects developed under the Metro Plan below BAAQMD's regional thresholds (assuming offset programs are available in the future). Because it cannot be concluded that offset programs per Mitigation Measure AQ-6 and Mitigation Measure AQ-8 would be available in the future at the time and in the amount needed for any given future development, for the

purposes of this SEIR analysis, health impacts related to regional criterial pollutants are conservatively assumed to be significant and unavoidable.

Potentially significant impacts resulting from exposure of receptors to PM_{2.5} exhaust from new stationary sources, TAC emissions from increased traffic volumes, and TACs generated during project construction activities would be reduced by Metro Plan policies and mitigation measures. Mitigation Measure AQ-1 would require BMPs to minimize construction emissions. In addition, Policy SC 8.1 in the Metro Plan requires the installation of high-efficiency filters should new sensitive receptors be sited within 500 feet of major roadways and highways in the Metro Plan Area. Mitigation Measure AQ-9 requires applicants to provide a project-level evaluation of construction- and operational-related health risks from future projects. However, because it cannot be concluded what the result of the project level evaluation will be without speculation, it is possible that mitigation for future project health risks may be inadequate to reduce impacts below BAAQMD's threshold level. This impact would be significant and unavoidable.

Impact C-AQ-1

Per BAAQMD guidelines, exceedances of project-level thresholds would be cumulatively considerable, and the cumulative impact would be significant. As discussed in Impacts AQ-2a and AQ-2b, construction and operational emissions resulting from individual projects developed under the Specific Plan could exceed BAAQMD's regional ROG, NO_x, PM₁₀, and PM_{2.5} thresholds. Mitigation Measures AQ-1 through AQ-8 could reduce regional emissions of ROG, NO_x, PM₁₀, and PM_{2.5} to a level below BAAQMD's regional thresholds. Because it cannot be concluded that offset programs per Mitigation Measures AQ-6 and AQ-8 would be available in the future at the time and in the amount needed for any given future development under the Metro Plan, impacts during construction and operation related to regional criterial pollutants quality impacts from the project are conservatively assumed to result in a significant and unavoidable cumulative impact.

Existing nearby DPM sources and the Metro Plan could contribute to a cumulative health risk for sensitive receptors near the Metro Plan Area. Mitigation Measures AQ-1 through AQ-9 would develop and maintain best practices for reducing emissions associated with construction and operational activities and require that new development with sensitive receptors adjacent to TAC sources be designed to minimize health risks, which would reduce construction and operational health risks for existing and future receptors. However, there may be instances where project-specific conditions would preclude a reduction in the health risk to a level below adopted thresholds and expose receptors to cumulative health risks. In addition, future development projects under the Metro Plan could generate DPM, PM_{2.5}, or other TACs that could expose adjacent receptors to significant health risks (e.g., from construction and operational sources that are adjacent to sensitive receptors). Therefore, it is conservatively assumed that the Metro Plan in combination with other past, present, and reasonably foreseeable future projects would result in a cumulative impact that would be significant and unavoidable.

Greenhouse Gases

Impact GHG-1

Mobile emissions from the Metro Plan would not achieve the state's carbon neutrality goal by 2045. Mitigation Measure GHG-2, which includes requirements for LEED certification or equivalent, electric space and water heating, solar roofs, and waste diversion programs, would ensure

consistency with the Scoping Plan and the long-term statewide reduction trajectory. Should all measures included in Mitigation Measure GHG-2 be implemented by a future project sponsor within the Metro Plan Area, that development would be consistent with the Metro Plan and the state's reduction targets for 2030. For projects where all of the requirements of Mitigation Measure GHG-2 (or their equivalent) are not implemented, implementation of Mitigation Measure GHG-3 is further required to reduce net operational GHG emissions through purchase of GHG mitigation credits. Even with implementation of Mitigation Measures GHG-2 and Mitigation Measure GHG-3, the Metro Plan Area may still have GHG emissions by 2045 and thus would not achieve carbon neutrality. Thus, GHG emissions from operations of the Metro Plan would result in a significant and unavoidable impact.

Impact C-GHG-1

No single emitter of GHGs is large enough to trigger global climate change on its own. Rather, climate change is the result of the individual contributions of countless past, present, and future sources. Therefore, GHG emissions impacts are inherently cumulative. GHG impacts of the Metro Plan would be considered significant and unavoidable. Accordingly, cumulative GHG impacts would also be considered significant and unavoidable.

Noise

Impact NOI-1

Construction noise from future development under the Metro Plan could occur during nighttime hours and/or could result in a substantial temporary increase in ambient noise levels in the City during daytime or nighttime hours, construction noise impacts from implementation of the Metro Plan would be considered potentially significant. Construction noise would be reduced by General Plan Policies N 1-5 and N 1-8, as well as Action N-1b, Action N-1c, and Action N-1d. However, it is not possible to ensure that in all instances and for all future projects, mitigation measures would reduce construction noise to less-than-significant levels. For example, certain projects may require construction noise during nighttime hours for various reasons (e.g., projects that require road closures, concrete pour activities that require early morning starts to prevent concrete curing prematurely). Therefore, some future projects may result in significant construction noise impacts that cannot be reduced to less-than-significant levels with mitigation.

Impact NOI-3

Pile driving and non-pile driving activities could result in vibration levels in excess of applicable thresholds (depending on the proximity of future construction activities to nearby structures), vibration-related damage impacts would be considered potentially significant. It is also possible that construction activities from future projects under the Metro Plan could result in vibration levels in excess of the thresholds at residential land uses during nighttime hours. Vibration-related annoyance impacts during nighttime hours would be considered potentially significant. Mitigation Measure NOI-2 would be required to reduce construction-related damage impacts. However, it is not possible to ensure that in all instances and for all future projects, mitigation measures would reduce construction vibration to less-than-significant levels.

Impact C-NOI-1

Direct impacts related to construction noise were determined to be significant and unavoidable. Similarly, construction noise from individual Metro Plan projects could combine with construction noise from other Metro Plan projects or Milpitas Gateway-Main Street Specific Plan project to result in a cumulative construction noise impact. Because concurrent construction of multiple projects could expose individual receivers located between two Metro Plan projects to greater construction noise levels than would be experienced from either project alone, because concurrent construction of multiple projects could expose individual receivers located between a Metro Plan project and a Milpitas Gateway-Main Street Specific Plan project to greater construction noise levels than would be experienced from either project alone, and because direct construction noise impacts would be considered significant and unavoidable, cumulative construction noise impacts would also be significant and unavoidable.

B. Benefits of the Proposed Milpitas Metro Plan/Overriding Considerations

The City of Milpitas has (i) independently reviewed the information in the SEIR and record of proceedings; (ii) made a reasonable and good faith effort to eliminate or substantially lessen the impacts resulting from the proposed Metro Plan to the extent feasible through identification of mitigation measures to the greatest extent feasible and (iii) balanced the project's benefits against the project's significant unavoidable impacts. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh its significant adverse environmental effects and is an overriding consideration warranting project approval. Adoption and implementation of the Metro Plan would provide the following considerable economic, social, legal, and other benefits.

1. Support Meeting the City's Regional Housing Needs

Milpitas' RHNA is based on growth projections and the current housing deficit. As described on page 3.5-6 of the draft SEIR, the City's RHNA allocation for Milpitas for 2023 to 2013 is a total of 6,713 housing units at a variety of income levels. Per the General Plan, almost all growth is planned in existing residential and mixed-use areas, with most of the growth planned in two Specific Plan areas, one of which is the Milpitas Metro Specific Plan Area. As explained on pages 3.5-8 through 3.5-9 of the draft SEIR, when it first developed the TASP, the City identified the potential of redeveloping the TASP Area from an industrial area into one where people could work, live, and take advantage of the proximity to, what was then, a future BART station. The planning process included the development of a Specific Plan with policies that would address the demands from the population growth associated with the TASP. Since the development of the TASP, the City has identified ways to plan for additional growth in the area, as a way of helping meet its RHNA requirements, and in doing so identified the need for the Metro Plan. The Milpitas Metro Specific Plan is a document that includes the City's plan for the population growth that would be generated from its implementation, including policies to guide the growth of the Metro Plan Area.

The Project Change supports the growth anticipated by the General Plan and is consistent with the population and housing goals from the 2040 General Plan, including Goal LU-7 to promote job-generating land uses; and Housing Element Goals A, B, C, D, and E to provide adequate sites to accommodate the City's share of the regional housing need; maintain and preserve housing resources; maintain high-quality residential neighborhoods and preserve existing housing

resources; facilitate new housing production; support housing diversity and affordability; and eliminate housing discrimination.

The Metro Plan will accommodate up to 7,000 additional housing units to help the City meet its regional housing needs requirements and support transit ridership. As explained on page 34 of the Milpitas Metro Plan, the Plan also envisions a series of neighborhoods that will be “affordable by design” due to their excellent access to high-quality transit and multimodal access, higher density design, small to moderate unit sizes, and low parking ratios. These units will still need to meet income-level affordability standards to meet RHNA requirements. Through future Housing Elements, the City will define affordable housing sites and establish Housing Opportunity Zones that support the development of affordable housing, which is likely to include sites within the Metro Plan Area. Therefore, the Metro Plan can play a substantial role in helping the City meet its RHNA.

2. Guide Development in the District

The Metro Plan guides development in the Metro Plan area, providing policies to guide development in the district in terms of land use, circulation, community design, and utilities and services. It fulfills the Policy 7.5 of the original TASP, which requires the creation of a coordinated development plan for the parcels at and around the Milpitas Transit Center. It also has all necessary actions needed to implement the Metro Plan and make it consistent with the City’s adopted 2040 General Plan and other relevant master plans and land development regulations. Therefore, adoption of the Metro Plan provides overall guidance for development in the Metro Plan area for a 20-year planning horizon.

3. Increase Transit-Oriented Development

The long-term focus of the Metro Plan is to continue and accelerate the transformation of the area from industrial and auto-oriented to a vibrant, connected, and fully developed transit-oriented neighborhood. The extension of VTA and BART lines into the Milpitas and East San Jose areas generally, and specifically into the Metro Area, meant that the Plan Area would be more regionally connected than any other part of the City of Milpitas. VTA completed construction of the Tasman East Extension in 2004, extending the regional light rail transit system and adding Great Mall/Main Street and Montague Expressway stations in Milpitas. A new Milpitas BART station, which opened in June 2020, was proposed at the intersection of Montague Expressway and Capitol Avenue. The TASP was originally developed to anticipate new development around the Milpitas Transit Center and respond to the continued growth of Silicon Valley by transforming a low-density industrial area into a mixed-use, transit-friendly area.

Mixed-use buildings create destinations that organically facilitate community interaction and reduce traffic during the workday by providing jobs and essential services within walking and biking distance of homes. The Metro Plan would update the TASP by adding substantially more opportunity for development in a transit-oriented and integrated mixed-use area of the City, including the potential for more housing, jobs, services and amenities in the Metro Plan Area. Mixed use housing would provide homes near jobs, services, and transit. The Metro Plan would provide high to very high-density housing and/or high intensity office and employment uses along arterials, the light rail, and close to the BART station to support transit ridership and complementary activities by responding to strong market interest in high-density development in an appropriate setting. It would accommodate a vibrant mix of pedestrian-accessible retail and amenities, high density housing and high intensity offices and other employment uses within the Metro Plan Area and

particularly within the Great Mall District, along Great Mall Parkway and Montague Expressway; and promote public art and wayfinding strategies. The Metro Plan would also attract business investments and generate employment opportunities through commercial development near transit, with up to 3,000,000 square feet of new office/Research and Development (R&D)/light manufacturing space. The Metro Plan therefore provides the framework for increasing transit-oriented development in the City.

4. Improve Pedestrian and Bicycle Circulation

The Metro Plan would create a multi-modal network that includes pedestrian pathways and bikeways to reinforce a pedestrian scale and grid, where appropriate. It would also improve connectivity with the Tango District to and from the VTA Transit Station and McCandless District with a pedestrian/bicycle bridge connection and improvements that complete the multi-use trail system. Key enhancements for the transportation network also include creating safer and more accessible connections for pedestrians and bicyclists and establishing a plan-wide TDM program. Therefore, the Metro Plan would improve both pedestrian and bicycle circulation in the Metro Plan area.

5. Improve the City Transportation Network

The Metro Plan would improve the City transportation network and contribute to the Countywide transportation network and transportation demand management over the next 20 years by improving the multimodal network and implementing the Active Transportation Plan. Key enhancements include creating safer and more accessible connections for pedestrians and bicyclists and establishing a plan-wide TDM program. Additionally, the Metro Plan supports creation of a streetscape that encourages multimodal connections with an attractive and richly detailed urban environment with good connectivity between desired destinations.

6. Reduce VMT

The Metro Plan would importantly reduce VMT. It would require TDM measures for all new development projects within the Metro Plan Area and encourage TDM strategies for existing uses. The Metro Plan would ensure that TDM measures are followed through the establishment of a Transportation Management Association (TMA) for the Metro Plan Area, as required by Action IM 28. The TMA will be responsible for monitoring trip reduction, VMT targets, and services within the Metro Plan Area.

7. Develop Public Open Spaces

The Metro Plan would develop parks, trails, and public open spaces that provide active and passive recreation opportunities, pedestrian connectivity, and places for community interaction in each District, as per the Parks and Recreation Master Plan. The Metro Plan identifies several opportunities for additional open space to be developed. This includes the following publicly accessible open space opportunities: a park north of the existing August Rathbone Park; improvements to the Penitencia Creek Trail, which is planned for in the Bicycle/Pedestrian and Trails Master Plan (City of Milpitas 2021); multiple parks and plazas in the Great Mall District; a park north of Mabel Mattos Elementary School; a park along Main Street in the McCandless District; improvements to trails along Berryessa Creek; and a park in the Innovation District. The Metro Plan

would establish urban design policies to ensure adequate public open space to serve residential development.

It would also generate publicly accessible private open space to supplement public open space in meeting the outdoor and recreational needs of residents. The Metro Plan would also encourage the development of creative, usable private and public outdoor space, such as on building rooftops and balconies and on other accessible public areas. Therefore, through several avenues, the Metro Plan prioritizes development of open space uses.

8. Increase Commercial, Light-Manufacturing, and Other Non-Residential Uses

Much of the TASP has been implemented. By 2019, 92 percent of the planned residential units were under development. However, economic conditions did not support the planned commercial development due to a lack of strong transit access that could support the higher intensity employment development prior to the opening of the BART station.

The Metro Plan outlines increases in non-residential uses. It aims to attract business investments and generate employment opportunities through commercial development near transit. It would create additional neighborhood-serving retail to serve demand from Metro Plan Area residents, community members, and the local workforce, including up to 300,000 additional square feet of retail and restaurant space. It requires local-serving retail on particular sites where it is feasible and appropriate and permit it in otherwise residential and commercial-only structures. Additionally, the Metro Plan promotes the development of hotels where appropriate to meet demand and support commercial activity to provide an important revenue source for the City.

It allows for up to 3,000,000 square feet of new office/Research and Development (R&D)/light manufacturing space. The Metro Plan supports the development of an Innovation District in the industrial area east of the Milpitas Transit Center and west of I-680, and particularly east of Berryessa Creek and on the four corners at the intersection of South Milpitas Boulevard and Montague Expressway, as a hub of employment and R&D, integrating Milpitas into Silicon Valley with high-density office, research, light manufacturing uses, and services primarily to the east of Berryessa Creek.

9. Re-envision the Great Mall and Enhance Great Mall Parkway

The attractions in the Metro Plan Area currently include the Great Mall's regional-serving shopping and entertainment. The Metro Plan envisions the Great Mall as a regional destination but with a greater variety of uses. The Metro Plan support the evolution of the Great Mall site from a purely retail-based mall site into a mixed-use, retail and amenity-rich area that is well integrated into the Metro Plan Area. Additionally, the Metro Plan would enhance Great Mall Parkway as a landmark street with a new linear park, streetscape improvements, and public art. In this way, the Metro Plan re-envisions the Great Mall site.

10. Integrate Sustainability Features in New Development

Milpitas has a citywide goal of reducing greenhouse gas emissions by nearly 50 percent from 2005 levels by 2030 and reaching carbon neutrality by 2045. To reach these targets, the City has taken a holistic approach to reduce emissions, particularly in the transportation sector and emissions related to energy usage in buildings.

Over the next few decades, the City's General Plan envisions that the majority of new development will continue to occur within the Milpitas Metro Area. Sustainability strategies implemented in the Metro Plan will have a substantial impact on the City of Milpitas and greater environment for years to come. The Milpitas Metro Plan is an early adopter of policies in the Climate Action Plan and contains policies that will increase the sustainability of the area through building standards that reduce emissions and increase reliance on renewable energy sources; transportation strategies that manage automobile usage and promote low- and zero-carbon transportation options; targeted strategies to reduce waste; and landscaping requirements to ensure reductions in water use. For example, the Metro Plan would require implementation of sustainability features for new development, including features in new buildings to reduce GHG emissions, requirements to design buildings using Low Impact Design principles, achieving a 75 percent diversion waste rate, and provide organic waste collection services for multifamily residential buildings.

C. Findings Regarding the Proposed Project and Statement of Overriding Considerations

The City of Milpitas finds and determines that the benefits of the proposed project are sufficient to find that the significant and unavoidable environmental effects are acceptable and justify adopting a Statement of Overriding Considerations. The discussion of project benefits described above are based on substantial evidence in the record in support of each of these findings.

VIII. Conclusion

After balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the Council finds that the unavoidable adverse environmental impacts identified may be considered "acceptable" due to the specific considerations listed above, which each outweigh the unavoidable, adverse environmental impacts of the proposed project.

The Milpitas City Council has considered information contained in the SEIR prepared for the proposed Milpitas Metro Specific Plan as well as the public testimony and record of proceedings in which the project was considered. Recognizing that significant unavoidable and cumulatively considerable noise, air quality, and GHG impacts may result from implementation of the proposed Milpitas Metro Specific Plan, the Council finds that the benefits of the Milpitas Metro Specific Plan and overriding considerations outweigh the adverse effects of the project. Having included all feasible mitigation measures, and recognized all unavoidable significant impacts, the Council hereby finds that each of the separate benefits of the proposed Milpitas Metro Specific Plan, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants adoption of the proposed Milpitas Metro Specific Plan and outweighs and overrides its unavoidable significant effects, and thereby justifies the adoption of the proposed Milpitas Metro Specific Plan.

Based on the foregoing findings and the information contained in the record, the Council hereby determines that:

1. All significant effects on the environment due to implementation of the proposed Milpitas Metro Specific Plan have been eliminated or substantially lessened where feasible;

2. There are no feasible alternatives to the proposed General Plan which would mitigate or substantially lessen the impacts; and
3. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations above.

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Metro - June 2022\Draft Findings - Metro SEIR July 2022.docx

Weblink to Milpitas Metro Plan SEIR:

https://www.milpitas.gov/wp-content/uploads/2022/04/Metro-Plan-Draft-SEIR_2022-April-with-Appendix-A-F.pdf

Project website: www.milpitasmetro.org

Weblink to Milpitas Metro Plan Final SEIR:

https://www.milpitas.gov/wp-content/uploads/2022/11/Milpitas-Metro-Specific-Plan-FSEIR_RTC_wAtt_Nov2022.pdf

Project website: www.milpitasmetro.org

Mitigation Monitoring and Reporting Program

Milpitas Metro Specific Plan Subsequent Environmental Impact Report

August 2022

Introduction

The California Environmental Quality Act (CEQA) requires the adoption of feasible mitigation measures to reduce the severity and magnitude of significant environmental impacts associated with project development. The draft subsequent environmental impact report (draft SEIR) for the Milpitas Metro Specific Plan (Metro Plan) identified all feasible mitigation measures, subject to adoption by decision makers, to reduce the potential environmental effects of the Project.

The Mitigation Monitoring and Reporting Program (MMRP) is formulated based upon the findings of the draft SEIR. The MMRP, found in the table below, lists mitigation monitoring and implementation requirements. This MMRP has been prepared to comply with the requirements of CEQA (Public Resources Code Section 21081.6), which requires Lead Agencies making CEQA findings related to approval of a project for which an EIR was prepared/certified to adopt an MMRP when mitigation measures are required to avoid significant impacts. This MMRP contains mitigation measures that have been required in the Metro Plan to lessen significant effects. The MMRP is designed to aid the City of Milpitas in its implementation and monitoring of measures adopted from the certified SEIR.

The mitigation measures in this MMRP are assigned the same number they had in the SEIR. The MMRP is presented in table format and describes the actions that must take place to implement each mitigation measure, the timing of those actions, the entities responsible for implementing and monitoring the actions, and verification of compliance. Additional information is provided in the SEIR for the Metro Plan.

The MMRP is organized in a matrix format. The first two columns of the table identify the potential impact and corresponding mitigation measures. The third column, entitled “Implementing Party, Action” refers to the party responsible for implementing the mitigation measure and the action itself. The fourth column entitled “Timing,” refers to when monitoring will occur to ensure the mitigating action is completed. The fifth column, entitled “Monitoring Party, Verification,” refers to the party responsible for oversight or ensuring that the mitigation measure is implemented and how they can verify the action was implemented.

**Milpitas Metro Specific Plan
Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
Air Quality				
AQ-1: Require at Least Tier 4 Final Engines on Construction Equipment All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to further reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities, shall operate on at least an Environmental Protection Act (EPA)-approved Tier 4 Final or newer engine. Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the Metro Plan Area. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that they operate on no less than an EPA-approved Tier 3 engine.	AQ-2a, AQ-3, C-AQ-1	Applicant/ applicant's contractor Provide documentation of use of Tier 4 engines or unavailability of pieces of equipment.	During all construction activities	City of Milpitas Review documentation.
AQ-2: Require Use of Diesel Trucks with 2010-Compliant Model Year Engines All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to use diesel trucks that have 2010 model year or newer engines, but no less than the average fleet mix for the current calendar year as set forth in the CARB's EMFAC database. In the event that 2010 model year or newer diesel trucks cannot be obtained, the contractor must provide documentation to the City showing that a good faith effort to locate such engines was conducted.	AQ-2a, AQ-3, C-AQ-1	Applicant/ applicant's contractor Provide documentation of use of engines with 2010 model year or newer engine but no less than average fleet mix for current calendar year per CARB's EMFAC database.	During all construction activities	City of Milpitas Review documentation.

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Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
AQ-3: Require Construction Fleet to Use Renewable Diesel All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 hp and operating for more than 20 total hours over the entire duration of construction activities shall operate on renewable diesel (such as high performance renewable diesel).	AQ-2a, AQ-3, C-AQ-1	Applicant/applicant's contractor Provide contract language requiring use of renewable diesel.	During all construction activities	City of Milpitas Review contract language.
AQ-4: Require Low-VOC Coatings During Construction All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings that have a VOC content of 10 grams/liter (g/L) or less are used during construction. The project applicant will submit evidence of the use of low-VOC coatings to City prior to the start of construction.	AQ-2a, AQ-3, C-AQ-1	Applicant/applicant's contractor Provide contract language requiring use of low-VOC coatings.	During all construction activities involving coatings	City of Milpitas Review contract language.
AQ-5: Require Fugitive Dust Best Management Practices All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented. • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day. • All haul trucks transporting soil, sand, or other loose material offsite will be covered.	AQ-2a, AQ-3, C-AQ-1	Applicant/applicant's contractor Provide contract language requiring implementation of fugitive dust best management practices.	During all construction activities to which the basic control measures would apply	City of Milpitas Review contract language.

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Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
• All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph). • All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used. • A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.				
AQ-6: Purchase Mitigation Credits for Construction Emissions Exceeding BAAQMD's Daily Pollutant Thresholds Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for construction criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 277,000 square feet. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls). If the project is less than the screening limit for its project type, then applicants shall confirm to the City whether construction-related activities would include any of the following:	AQ-2a, AQ-3, C-AQ-1	Applicant Provide documentation that demonstrates the project is below the screening limit or an estimate of average emissions compared to BAAQMD thresholds. If above applicant must show documentation of coordination with a third-party or governmental	Estimates provided with application; payment (if required) is prior to construction, specifically prior to any year in which construction activity is estimated to result in an exceedance of thresholds	City of Milpitas Review emissions calculations and, if necessary, review documentation of offset purchase.

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Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
• Demolition. • Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously) or construction would occur simultaneous with other Metro Plan development. • Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development). • Extensive site preparation (i.e., greater than default assumptions used by the CalEEMod model for grading, cut/fill, or earth movement). • Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity. If the project is less than the screening limit for the project type and construction would involve none of the five conditions above, no further action is required. Project applicants not excluded by the conditions above shall estimate annual average emissions for each year of construction and compare the annual average emissions for each year of construction to the applicable BAAQMD thresholds at the time of analysis. The emissions estimate shall be provided as part of the project's initial application to the City. The City will review the estimate and confirm whether offsets are required for construction. Should the City-confirmed estimate indicate that the proposed development estimate would not result in construction emissions exceeding BAAQMD's daily pollutant thresholds, no further action will be required. For proposed developments that are estimated to result in exceedances of thresholds, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for		entity for purchase of construction offsets.		

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
every year in which construction emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which construction activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront, prior to construction. To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.				
AQ-7: Restrict Use of Natural Gas in New Development Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future local building regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.	AQ-2b, AQ-7, C-AQ-1	Applicant Provide design documentation that demonstrates exclusion of natural gas from new development or documentation it is infeasible.	During project design and operation	City of Milpitas Review documentation.
AQ-8: Purchase Mitigation Credits for Operational Emissions Exceeding BAAQMD's Daily Pollutant Thresholds	AQ-2b, AQ-8, C-AQ-1	Applicant Provide documentation that	Estimates provided with application; payment (if	City of Milpitas Review documentation

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for operational criteria pollutants found in Table 3-1 in BAAQMD's current CEQA guidelines (2017). The screening limit for general office buildings, office park, or government office building is 346,000 square feet, 323,000 square feet, and 61,000 square feet, respectively. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls) If the project is less than the screening limit for the project type, then no further action is required. Project applicants not excluded by the condition above shall estimate annual average operational emissions for each operational year over the life of the project (20 years) and compare the annual average emissions for each year of operations to the BAAQMD thresholds used in the EIR for criteria pollutants. The emissions estimate shall be provided as part of the project's initial application to the City for the project. The City will review the estimate and confirm whether offsets are required for operation. Should the City-confirmed estimate indicate that the proposed development estimate would not result in operational emissions exceeding BAAQMD's daily pollutant thresholds, no further action is required. For proposed developments that are estimated to result in exceedances of thresholds during any year of the project's life, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which operational emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds,		demonstrates the project is below the screening limit or an estimate of average emissions compared to BAAQMD thresholds. If above applicant must c show documentation of coordination with a third-party or governmental entity for operations offsets.	required) is prior to operation or annually during project operation	and, if necessary, review documentation of offset purchase.

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which operational activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront prior to operation. To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.				
AQ-9: Prepare a Health Risk Assessment All applicants proposing development of projects in the Metro Plan Area within 1,000 feet of existing sensitive receptors, as defined by BAAQMD (e.g., residential), shall prepare a site-specific construction and operational Health Risk Assessment (HRA). The HRA shall include all reasonably foreseeable sources of TAC, consistent with BAAQMD guidelines. If the HRA demonstrates, to the satisfaction of the City, that the health risk exposures or PM2.5 concentrations for adjacent receptors would be less than BAAQMD project-level thresholds, then additional mitigation would be unnecessary. However, if the HRA demonstrates that health risks or PM2.5 concentrations would exceed BAAQMD project-level thresholds, additional feasible on- and offsite mitigation would be analyzed by the applicant to help reduce risks to the greatest extent	AQ-3, C-AQ-1	Applicant Prepare HRA. If health risk is over BAAQMD threshold, analyze mitigation to reduce risks.	With project application	City of Milpitas Review HRA and, if necessary, mitigation measures.

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
practicable. Mitigation may include installation of indoor air filters (MERV 13 or higher) at sensitive receptor locations and planting of vegetation and trees as pollution buffers.				
Greenhouse Gases				
GHG-1: Require Implementation of BAAQMD-Recommended Construction Best Management Practices All applicants within the Metro Plan Area shall require their contractors, as a condition of contracts, to reduce construction-related GHG emissions by implementing BAAQMD's recommended BMPs, including the following measures (based on BAAQMD's 2017 CEQA Guidelines): • Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet. • Use at least 10 percent local building materials (sourced from within 100 miles of the Metro Plan Area). • Recycle and reuse at least 50 percent of construction waste or demolition materials.	GHG-1, C-GHG-1	Applicant/applicant's contractor Provide contract language requiring implementation of fugitive dust best management practices.	During all construction activities	City of Milpitas Review contract language.
GHG-2: Implement Operational GHG Reduction Measures or Their Equivalent Applicants of future projects within the Metro Plan Area shall implement the following operational GHG emissions reduction strategies where feasible or demonstrate why a measure is not feasible, and implement equivalent GHG reductions to the foregone measure, or pay a mitigation fee per Mitigation Measure GHG-3 (see below) to compensate for any foregone GHG reductions not implemented. Applicants of future projects that do not propose to implement all of the strategies described below shall prepare a feasibility study outlining why the declined strategies were not implemented (e.g., feasibility, not	GHG-1, C-GHG-1	Applicant Provide documentation of integration or reduction strategies into project design and operational plans or demonstrating infeasibility and alternative measures.	With project application, prior to issuance of building permits	City of Milpitas Review project designs and, as needed, documentation of infeasibility or alternative measures.

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
applicable, etc.), estimating the foregone GHG reductions, and identifying any equivalent GHG reduction measures proposed (or proposal to pay a mitigation fee instead) for the City's review and concurrence prior to the issuance of building permits. LEED Certification. The United States Green Building Council (USGBC) is a private 501(c)3, non-profit organization that promotes sustainability in building design, construction, and operation. The USGBC developed the LEED program, which provides a rating system that awards points for new construction based on energy use, materials, water efficiency, and other sustainability criteria. LEED has certification systems for both commercial and residential use. While LEED allows some flexibility in choice of measures to meet LEED criteria, new construction shall be required to include specific committed measures in use of recycled and sustainable materials in construction, water efficiency, and efficiency of energy use. New development in the Metro Plan Area shall be required to achieve LEED Silver certification or equivalent, or a higher certification, or provide equivalent GHG reductions through proposed new measures or payment of a fee per Mitigation Measure GHG-3. Natural Gas Infrastructure. Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure. Solar Roofs. Mounted rooftop electricity-generating solar panels convert solar energy to electricity for use in commercial and residential buildings.				

Milpitas Metro Specific Plan Mitigation Monitoring and Reporting Program				
Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
- New construction in the Metro Plan Area shall be required to either employ solar roofs on at least 30 percent of roof square footage or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of solar roofs may be part of meeting LEED Silver or equivalent requirements. Waste Minimization Programs. For waste that is generated by non-residential uses, recycling, composting of food waste and other organics, and the use of reusable products instead of disposal products diverts solid waste from the landfill stream. New non-residential uses in the Metro Plan Area shall be required to implement recycling (including organics recycling) and reusable product use programs or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of these measures may be part of meeting LEED Silver or equivalent requirements.				
GHG-3: Purchase GHG Mitigation Credits Where a future project in the Metro Plan Area does not propose to implement all of the GHG reduction measures in Mitigation Measure GHG-2 and does not propose equivalent reduction measures to compensate for the measures not implemented, the project applicant shall be required to pay on a pro rata basis for net operational GHG emissions to compensate for emissions foregone from not implementing all measure in Mitigation Measure GHG-2 or providing equivalent reductions. Applicants may purchase GHG credits from a voluntary GHG credit provider that has an established protocol that requires projects generating GHG credits to demonstrate that the reduction of GHG emissions are real, permanent, quantifiable, verifiable, enforceable, and additional (per the	GHG-1, C-GHG-1	Applicant Provide documentation of GHG mitigation credit purchase.	With project application, and then prior to January 1 of each calendar year for the following year for up to 30 years of operations	City of Milpitas Review documentation.

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
definition in California Health and Safety Code Sections 38562(d)(1) and (2)). Definitions for these terms are as follows. • Real: Estimated GHG reductions should not be an artifact of incomplete or inaccurate emissions accounting. Methods for quantifying emission reductions should be conservative to avoid overstating a project's effects. The effects of a project on GHG emissions must be comprehensively accounted for, including unintended effects (often referred to as "leakage"). To ensure that GHG reductions are real, the reduction must be a direct reduction within a confined project boundary. • Additional: GHG reductions must be additional to any that would have occurred in the absence of the Climate Action Reserve, or of a market for GHG reductions generally. "Business as usual" reductions (i.e., those that would occur in the absence of a GHG reduction market) should not be eligible for registration. • Permanent: To function as offsets to GHG emissions, GHG reductions must effectively be "permanent." This means, in general, that any net reversal in GHG reductions used to offset emissions must be fully accounted for and compensated through the achievement of additional reductions. • Quantifiable: GHG reductions or GHG removal enhancements must be able to be accurately measured and calculated relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage. • Verified: GHG reductions must result from activities that have been verified. Verification requires third-party				

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
review of monitoring data for a project to ensure the data are complete and accurate. • Enforceable: The emission reductions from offset must be backed by a legal instrument or contract that defines exclusive ownership and the legal instrument can be enforced within the legal system in the country in which the offset project occurs or through other compulsory means. Please note that per this mitigation measure, only credits originating within the United States are allowed. GHG credits must also meet the following requirements: • GHG credits may be in the form of GHG offsets for prior reductions of GHG emissions verified through protocols or forecasted mitigation units for future committed GHG emissions meeting protocols. • All credits shall be documented per protocols functionally equivalent in terms of stringency to CARB's protocol for offsets in the cap and trade program. The applicant must provide the protocols from the credit provider and must document why the protocols are functionally equivalent. • Applicants shall identify GHG credits in geographies closest to Santa Clara County first and only turn to larger geographies (i.e., California, United States, global) if adequate credits cannot be found in closer geographies, or the procurement of such credits would create an undue financial burden. Applicants shall provide the following justification for not using credits in closer geographies in terms of either availability or cost prohibition: ○ Lack of enough credits available in closer geographies. ○ Prohibitively costly credits in closer geographies are defined as credits costing more than 300 percent the				

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
amount of the current costs of credits in the regulated CARB offset market. - Documentation submitted supporting GHG credit proposals shall be prepared by individuals qualified in GHG credit development and verification and such individuals shall certify the following: (1) proposed credits meet the definitions for the criteria provided in this measure; and (2) the protocols used for the credits meet or exceed the standards for stringency used in CARB protocols for offsets under the California cap-and-trade system. This mitigation includes the following specific requirements for applicants of future projects within the Metro Plan Area: - Applicants shall provide the City with a 30-year operational GHG emissions estimate for the final design that includes two scenarios: (1) project operations including all Mitigation Measure GHG-2 reduction measures; and (2) project operations only including those Mitigation Measure GHG-2 reduction measures the applicant proposes to implement and any alternative GHG reduction measures proposed by the applicant. The emissions estimate can be focused exclusively on the sectors where Mitigation Measure GHG-2 measures will not be fully implemented. The difference between the Scenario 1 and Scenario 2 operational emissions will define the amount of needed annual GHG reductions to be addressed through purchase of GHG mitigation credits. The City shall review the emission estimates to ensure they are representative and determine the total amount of annual GHG emissions required to be addressed through purchase of mitigation credits. - Applicants shall purchase GHG mitigation credits meeting the above requirements and provide				

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
documentation to the City of how the credits meet the above requirements. Applicants shall provide the City with documentation of the retirement of sufficient GHG credits to meet the annual GHG reduction amount prior to January 1 of each calendar year for the following year. This requirement shall apply to operations for up to 30 years. Applicants may purchase credits up front or in advance as they choose.				
Noise				
NOI-1: Mechanical Equipment Noise Reduction Plan To reduce potential noise impacts resulting from mechanical equipment (including but not limited to HVAC equipment and emergency generators), the applicants of future projects under the Metro Plan shall conduct a noise analysis to estimate noise levels of project-specific mechanical equipment. The noise analysis shall be based on the selected equipment models and design features. The applicant for the project shall create a Noise Reduction Plan to ensure noise levels of equipment, once installed, are below the applicable criteria described below. The Noise Reduction Plan shall include any necessary noise reduction measures required to reduce project-specific mechanical equipment noise to a less-than-significant level. The plan shall also demonstrate that with the inclusion of selected measures, noise from equipment would be below the significance thresholds. Feasible noise reduction measures to reduce noise below the significance thresholds include, but are not limited to, selecting quieter equipment, utilizing silencers and acoustical equipment at vent openings, siting equipment farther from the roofline, and/or enclosing all equipment in a mechanical equipment room designed to reduce noise. Regarding emergency generators, additional noise reduction options include, but are not limited to, installing quieter model generators,	NOI-2, C-NOI-1	Applicant Prepare a noise analysis for mechanical equipment and a Noise Reduction Plan with reduction measures to reduce project noise to below a level of significance.	During project design	City of Milpitas Review noise analysis and Noise Reduction Plan.

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Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
incorporating noise-reducing emergency generator weather enclosures, and installing exhaust mufflers or silences. The results of the noise analysis and the final Noise Reduction Plan shall be provided to the City prior to the issuance of building permits. The noise analysis and Noise Reduction Plan shall be prepared by persons qualified in acoustical analysis and/or engineering. The Noise Reduction Plan shall demonstrate with reasonable certainty that noise from mechanical equipment selected for the project, including the attenuation features incorporated into the project design, will not exceed the City of Milpitas property plane thresholds of 55 dBA during daytime hours or 45 dBA during nighttime hours for nearby residential land uses. The applicants of future projects under the Metro Plan shall incorporate all feasible methods to reduce noise and any other feasible recommendations from the acoustical analysis and Noise Reduction Plan into the building design and operations, as necessary, to ensure that noise sources meet applicable requirements of the respective noise ordinances at receiving properties.				
NOI-2: Protect Potentially Susceptible Structures from Construction-Generated Vibration If a future development project in the Metro Plan requires any of the following construction activities, then this measure would apply: • Pile driving within approximately 100 feet of an existing structure. • Construction with other ground-disturbing equipment (e.g., jackhammers, bulldozers, excavators, etc.) within 25 feet of an existing structure. The construction contractor shall consult with the City to determine whether adjacent or nearby structures could be	NOI-3, C-NOI-1	Applicant/applicant's contractor Consult with the City about potential impacts to nearby structure and implement measures to avoid damage to structures in coordination with the City.	During construction involving pile driving within 100 feet of a structure or other ground-disturbing equipment within 25 feet of a structure	City of Milpitas Review documentation of consultation and that measures have been required, if needed, to reduce impacts.

**Milpitas Metro Specific Plan
Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
adversely affected by construction-generated vibration. If buildings adjacent to construction activity are identified that could be adversely affected, the project applicant will incorporate into construction specifications for their project a requirement that the construction contractor(s) use all feasible means to avoid damage to adjacent and nearby buildings. Such methods to help reduce vibration-related damage effects may include maintaining a safe distance between the construction site and the potentially affected building (e.g., at least 100 feet for “historic and some old buildings”) or using “quiet” pile-driving technologies (such as predrilling piles or using sonic pile drivers). Should pile driving be required within 100 feet of a building in the “historic or some old building” category, within 75 feet of buildings in the “older residential structures” category, and within 55 feet of buildings in the “modern industrial/commercial” category, the City will work with the construction contractor to implement a monitoring program to minimize damage to adjacent buildings and ensure that any such damage is documented and repaired. If required, the monitoring program will include the following components: • Prior to the start of any ground-disturbing activity, the project applicant will engage a historic architect or qualified historic preservation professional to undertake a preconstruction survey of nearby affected buildings that may be considered historic. For buildings that are not potentially historic, a structural engineer or other professional with similar qualifications will document and photograph the existing conditions of potentially affected buildings within 100 feet of pile-driving activity. • Based on the construction and condition of the resource(s), the consultant will also establish a standard				

**Milpitas Metro Specific Plan
Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
maximum vibration level that will not be exceeded at any building, based on existing conditions, character-defining features, soil conditions, and anticipated construction practices. Common standards are a peak particle velocity of 0.25 inch per second for “historic and some old buildings,” a peak particle velocity of 0.3 inch per second for “older residential structures,” and a peak particle velocity of 0.5 inch per second for “new residential structures” and “modern industrial/commercial buildings,” as shown in Table 3.4-2. • To ensure that vibration levels do not exceed the established standard, the project applicant will monitor vibration levels at each structure and prohibit vibratory construction activities that generate vibration levels in excess of the standard. • Should vibration levels be observed in excess of the selected standard, construction will be halted, and alternative construction techniques put in practice, to the extent feasible (e.g., predrilled piles could be substituted for driven piles, if feasible, based on soil conditions, or smaller, lighter equipment could be used in some cases). • The historic preservation professional (for effects on historic buildings) and/or structural engineer (for effects on non-historic structures) will conduct regular periodic inspections (every 3 months) of each building during ground-disturbing activity on the project site. Should damage to any building occur, the building(s) will be remediated to their preconstruction condition at the conclusion of ground-disturbing activity on the site.				
NOI-3: Implement Nighttime Construction Vibration Control Plan to Reduce Vibration-Related Annoyance Impacts on Adjacent Land Uses Should vibration-generating construction activities for future development under the Metro Plan be proposed	NOI-3, C-NOI-1	Applicant/ applicant's contractor Develop a nighttime	Prior to and during vibration-generating construction activities outside of	City of Milpitas Review nighttime construction vibration control plan.

**Milpitas Metro Specific Plan
Mitigation Monitoring and Reporting Program**

Mitigation Measure	Impacts	Implementing Party, Action	Timing	Monitoring Party, Verification
outside of the daytime hours of 7:00 a.m. to 7:00 p.m., and should non-pile driving equipment be proposed within 25 feet of occupied residences or buildings where people sleep, the construction contractor for a project in the Metro Plan Area shall develop a nighttime construction vibration control plan. In addition, should nighttime pile driving activities be proposed within 100 feet of such buildings, the construction contractor for a project in the Metro Plan Area shall similarly develop a nighttime construction vibration control plan. The construction vibration control plan shall demonstrate that vibration levels at the residential land uses during nighttime hours will not exceed 0.1 PPV in/sec. In addition, the construction contractor will appoint a project vibration coordinator who will serve as the point of contact for vibration-related complaints during project construction. The contact information for the project vibration coordinator shall be posted at the project site and on a publicly available project website for future development projects under the Metro Plan. Should residents in the project area submit complaints to the project vibration coordinator for nighttime construction vibration concerns, the project vibration coordinator shall work with the construction team to adjust activities to reduce vibration or to reschedule activities for a less sensitive time.		construction vibration control plan.	daytime hours within 100 feet of residences/sleeping quarters (pile driving) or 25 feet of residences/sleeping quarters (non-pile driving)	

S:\PLANNING DIVISION1\SPECIFIC PLANS\Transit Area Plan\2019 TASP Update - 2021 Metro\Metro EIR 2021 ICF\Final SEIR Metro - June 2022\MMRP Metro Aug 2022.docx

Weblink to Milpitas Metro Specific Plan:

<https://www.milpitas.gov/wp-content/uploads/2022/11/Milpitas-Metro-Specific-Plan-Public-Draft-10.31.22-compressed.pdf>

Project website: www.milpitasmetro.org

RESOLUTION NO. 22-025**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE MILPITAS METRO SPECIFIC PLAN FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (FSEIR), AND THAT THE CITY COUNCIL ADOPT THE MILPITAS METRO SPECIFIC PLAN**

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65300 et seq. requires each city to prepare and adopt a comprehensive, long-term general plan for the physical development of the county or city; and

WHEREAS, the City’s General Plan was last comprehensively updated in 2021, including reference to the land use responsibilities of the previously adopted Transit Area Specific Plan (“TASP”) and the pending update of that Plan with the Milpitas Metro Specific Plan; and

WHEREAS, in February 2020, the City initiated a multi-year process to comprehensively update the TASP by hiring consultants, approving a work plan and schedule, and conducting public workshops; and

WHEREAS, the City’s consultants and staff held public workshops to identify key issues and challenges that Milpitas may face in the Plan area and the City generally over the next 20 years, update the Plan’s Land Use Map, and to update a comprehensive set of goals and policies contained in the Specific Plan; and

WHEREAS, the City Council and Planning Commission received periodic briefings from city staff and the consultant team to review input and receive information relevant to the specific topics addressed in the Plan update work, and to provide direction and guidance to staff and the consultant team regarding land use opportunity areas and development of the preferred land use map; and

WHEREAS, the Milpitas Metro Specific Plan carries forward some of the major goals of the 2008 Transit Area Specific Plan but has substantially updated the Plan area and policies to address current local conditions and community priorities; and

WHEREAS, the “Planning Area” for the Milpitas Metro Specific Plan is defined as the area within the defined boundaries, including approximately 510 acres in the southeast corner of the City, generally surrounding the Milpitas Transit Center; and

WHEREAS, the Milpitas Metro Specific Plan is a focused document that provides an integrated and internally consistent statement of the official land use policy consistent with the City of Milpitas General Plan; and

WHEREAS, The City made available the draft Milpitas Metro Specific Plan to the public, affected public entities and agencies in compliance with state law (Government Code Sections 65450 – 65457, and in accordance with Government Code Sections 65352.3 contacted California Native American tribes that are on the contact list maintained by the Native America heritage Commission to invite those tribes to consult on the proposed Milpitas Metro Specific Plan; and

WHEREAS, the City released the Public Review Draft Milpitas Metro Specific Plan in April 2022 and invited comments by the public from April 15, 2020 and up to the adoption of the Plan and has updated the Draft Metro Plan and made it available on the project website (www.milpitasmetro.org); and

WHEREAS, the City prepared a Draft Subsequent Environmental Impact Report (“SEIR”) (SCH#: 2006032091) for the Public Review Draft Milpitas Metro Specific Plan that provides a description of potential environmental impacts of the project update and recommends mitigation measures to reduce the impacts to a less than significant level, where feasible, and released the Draft SEIR on April 15, 2022 for a 45-day public review period that ended on May 31, 2022, and a Findings of Fact has been prepared to comprehensively describe the potential impacts, mitigation measures and overriding considerations in adopting the Metro Plan; and

WHEREAS, the City has received comments on both the Public Review Draft Milpitas Metro Specific Plan and the Draft SEIR, considered and analyzed the comments, and made changes to the EIR and Draft Milpitas Metro Specific Plan as a result of the comments received and incorporated the comments and responses to comments on the Draft EIR in the Final EIR and included comments and responses to comments on the Draft Milpitas Metro Specific Plan as a separate document for the public and decisionmakers to review as part of the Planning Commission public hearing process and has made it available on the project website (www.milpitasmetro.org); and

WHEREAS, comments on the Draft Milpitas Metro Specific Plan received from the public and were presented and revisions proposed for Planning Commission consideration, which were included as part of the Final SEIR for the November 9, 2022 Planning Commission review; and

WHEREAS, on November 9, 2022, the City of Milpitas Planning Commission held a duly noticed public hearing on the SEIR and the Draft Milpitas Metro Specific Plan, considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

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

SECTION 1. Recitals

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

SECTION 2. CEQA Findings

The Planning Commission has been provided the Final Subsequent SEIR and findings to review and consider in making a recommendation to the City Council to adopt the Milpitas Metro Specific Plan.

SECTION 4: Planning Commission Action

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 22-025 recommending that the City Council certify the Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (FSEIR) (SCH#2006032091) and that the City Council adopt the Milpitas Metro Specific Plan

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on December 14, 2022.

DocuSigned by:
Chair Bill Chuan Dec-15-2022
4CD00AF0F201461...
Chair

Resolution No. 22-025 Milpitas Metro Specific Plan**Page 4**

Item # 8.

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on November 9, 2022 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Bill Chuan	✓			
Larry Ciardella	✓			
Mercedes Albana	✓			
Alexander Galang	✓			
Dipak Awasthi	✓			
Zeya Mohsin			✓	
Sonia Medina-Ashby	✓			

Certificate Of Completion

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Elizabeth Medina

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Milpitas, CA 95035

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emedina@milpitas.gov

Signer Events

Chair Bill Chuan

bill_chuan@yahoo.com

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Chair Bill Chuan BC
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Viewed: December 15, 2022 | 11:55

Signed: December 15, 2022 | 11:56

Signature Adoption: Drawn on Device

Using IP Address: 67.188.2.13

Signed using mobile

Electronic Record and Signature Disclosure:

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ID: 2416c4ee-6910-4e80-80c9-e7f00a3dce53

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Kevin Riley

kriley@milpitas.gov

Security Level: Email, Account Authentication
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Ned Thomas

nthomas@milpitas.gov

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Certified Delivered		Security Checked	December 15, 2022 11:55	
Signing Complete		Security Checked	December 15, 2022 11:56	
Completed		Security Checked	December 15, 2022 11:56	
Payment Events		Status	Timestamps	
Electronic Record and Signature Disclosure				

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

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If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

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ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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MILPITAS PLANNING COMMISSION STAFF REPORT

December 14, 2022

APPLICATION:	Draft Milpitas Metro Specific Plan (Metro Plan) and Final Subsequent Environmental Impact Report (SEIR): Review and discuss the Final Milpitas Metro Environmental Impact Report and Milpitas Metro Specific Plan, which updates the 2008 Transit Area Specific Plan (TASP), including expansion of the boundaries of the Plan area and increasing the development potential and infrastructure of the Metro Plan area, and provide a recommendation for approval to the Milpitas City Council.
RECOMMENDATION:	Staff recommends that the Planning Commission conduct a public hearing and adopt Resolution No. 22-025 recommending that the City Council certify the Milpitas Metro Plan Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopt the Milpitas Metro Specific Plan
PROJECT LOCATION:	The Plan area encompasses approximately 510 acres at the southeast corner of the City, including the new Milpitas Transit Center and the Great Mall
PEOPLE:	
Project Consultants:	Urban Field Studio, Jane Lin, Principal M-Group, Christina Paul, Principal ICF, Heidi Mekkelson, Principal ICF, Kristi Black, Senior Environmental Planner
Project Staff:	Ned Thomas, Planning Director Kevin Riley, TASP/Metro Project Manager Staff from Various City Departments
ENVIRONMENTAL PROCESS:	A Subsequent Environmental Impact Report (SEIR) has been prepared. The Draft SEIR was circulated on April 15, 2022, for a 45-day public review period in accordance with the California Environmental Quality Act (CEQA). Responses to comments on and amendments to the Draft SEIR have been incorporated into the Draft to produce the Final SEIR, which the City Council must certify prior to adoption of the Metro Plan.

BACKGROUND

This proposal was presented to the Planning Commission on November 9, 2022. There have been no changes to the Plan or the related materials, and staff has not received additional public comments since that meeting. Attached are copies of the November 9, 2022 Planning Commission staff report and draft resolution for review by the Commission and the public. Also attached are weblinks to the draft Metro Specific Plan document and SEIR materials.

OVERVIEW

The Milpitas Metro Specific Plan (Metro Plan) updates the original 20-year Transit Area Specific Plan (TASP). Little development occurred in the first years of the TASP program that coincided with the Great Recession but resurging strong housing demand resulted in nearly 95 percent of its housing being entitled or developed by 2019. In addition, following the TASP adoption in 2008, relatively little of the commercial potential of the TASP has been realized. The preliminary phases of housing development focused on town homes and did not yield retail development; however, more recent development along Great Mall Parkway has included commercial and retail development in a mixed-use format.

In 2019, the City determined that an amendment and update of the original TASP was needed to ensure continued capacity for future development in the area surrounding the Milpitas Transit Center. The TASP update evolved into the Milpitas Metro Plan, with an expanded Plan area with higher density residential opportunities and greater commercial intensity intended to take advantage of the BART/VRTA transit hub and the close proximity of jobs, housing and services that could be realized within a walkable area.

The Milpitas City Council certified an Environmental Impact Report (SCH #2006032091) for the Transit Area Specific Plan in 2008 in accordance with the California Environmental Quality Act (CEQA). The certified Program EIR for the TASP analyzed environmental impacts of the proposed development and the TASP policies related to development.

The Subsequent Environmental Impact Report (SEIR) prepared for the Milpitas Metro Plan analyzes a variety of changes in the original TASP with respect to a new development scenario and updated or changed policies in document. These changes generally address: 1) geographic expansion of the Plan area; 2) changes in land use and zoning designations, 3) added residential and non-residential populations in the area, and 4) extension of the time horizon from the original 2030 to 2040.

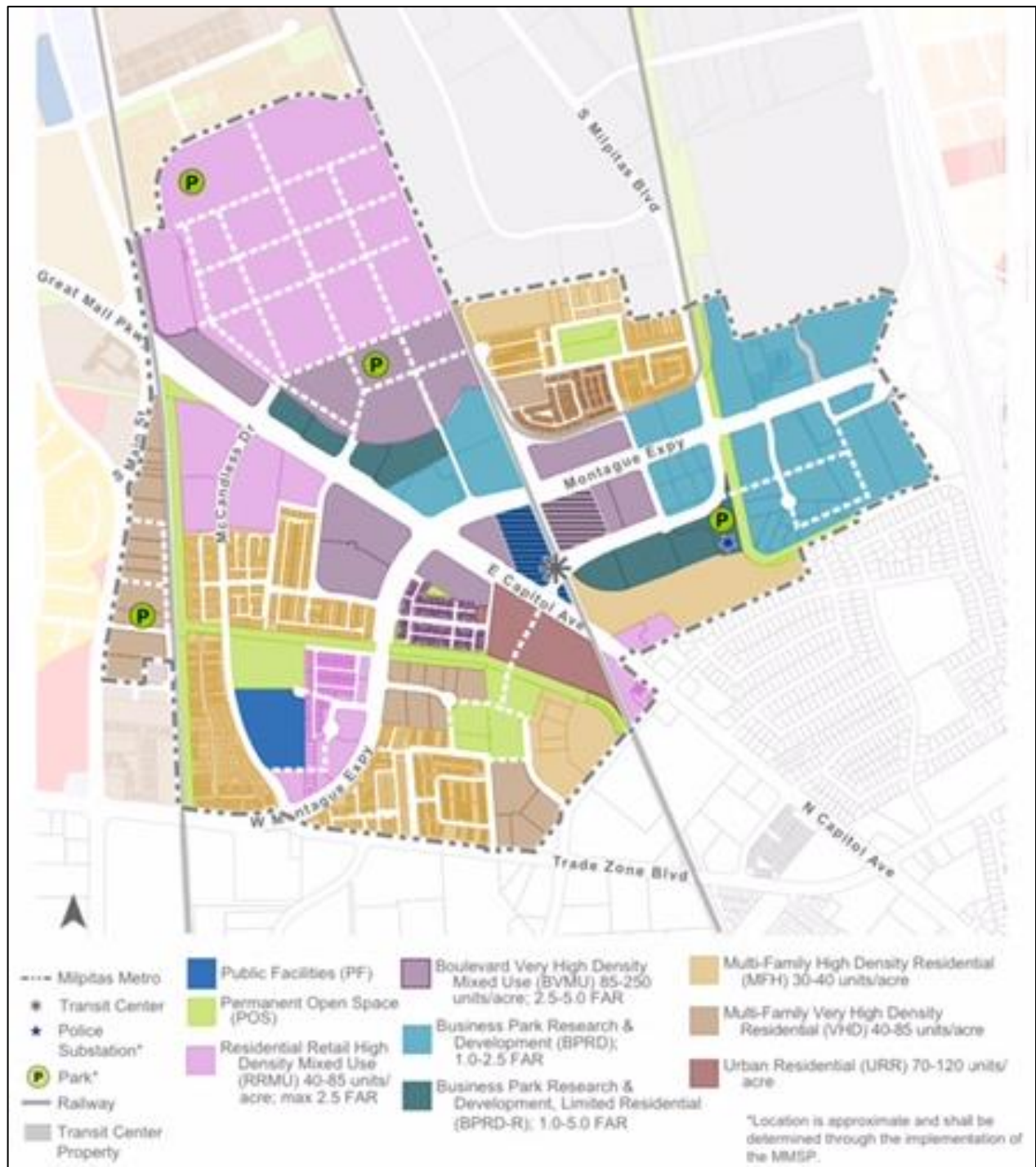
Attached below is a copy of the proposed Metro Plan Land Use Map, which was also presented in the November 9, 2022 Planning Commission staff report.

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution No. 22-025 recommending that the City Council certify the Milpitas Metro Plan Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopt the Milpitas Metro Specific Plan.

Figure 1: Metro Specific Plan Land Use Diagram

**ATTACHMENTS:**

A: Planning Commission Staff Report for November 9, 2022

B: Resolution No. 22-025

C: Weblink to Draft Milpitas Metro Specific Plan

D: Weblink to Draft Supplemental Environmental Impact Report (SEIR)



MILPITAS PLANNING COMMISSION STAFF REPORT

November 9, 2022

APPLICATION:	Draft Milpitas Metro Specific Plan (Metro Plan) and Final Subsequent Environmental Impact Report (SEIR): Review and discuss the Final Milpitas Metro Environmental Impact Report and Milpitas Metro Specific Plan, which updates the 2008 Transit Area Specific Plan (TASP), including expansion of the boundaries of the Plan area and increasing the development potential and infrastructure of the Metro Plan area, and provide a recommendation for approval to the Milpitas City Council.
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PROJECT STAFF:	Ned Thomas, Planning Director Kevin Riley, TASP/Metro Project Manager Staff from Various City Departments
ENVIRONMENTAL REVIEW:	A Subsequent Environmental Impact Report (SEIR) has been prepared. The Draft SEIR was circulated on April 15, 2022, for a 45-day public review period in accordance with the California Environmental Quality Act (CEQA). Responses to comments on and amendments to the Draft SEIR have been incorporated into the Draft to produce the Final SEIR, which the City Council must certify prior to adoption of the Metro Plan. The SEIR is a Program EIR and provides analysis of the changes in land use strategies and policies of the Metro Plan. Development of individual projects that are consistent with the Milpitas Metro Specific Plan strategies and policies will generally require no further CEQA analysis in receiving project entitlements.

BACKGROUND

The Milpitas Metro Specific Plan (Metro Plan) updates the original 20-year Transit Area Specific Plan (TASP). Little residential development occurred in the first years of the TASP program that coincided with the Great Recession but resurging strong housing demand resulted in nearly 95 percent of its housing being entitled or developed by 2019. Following the TASP adoption in 2008, relatively little of the commercial potential of the TASP has been realized to date. The preliminary phases of housing development focused on town homes and did not yield significant retail development, however more recent development along Great Mall Parkway has included commercial and retail development in a mixed-use format; particularly of note is the Trader Joe's market in the Turing project.

The City determined in 2019 that an amendment and update of the original plan was needed, and the update became the Metro Plan, reflecting an expanded Plan area with higher density residential opportunities and greater commercial intensity intended to take advantage of the BART/VTA transit hub and the close proximity of jobs, housing and services that could be realized within a walkable area.

Plan Vision

The following are the seven key points of the Milpitas Metro Plan Vision, as articulated in the plan:

1. To create a more complete neighborhood.
2. To expand neighborhood services and the variety of retail.
3. To preserve space for jobs near transit.
4. To provide affordable and market-rate housing.
5. To provide safer and more attractive multimodal connections for walking and biking.
6. To provide a greater variety of shared public spaces.
7. To enhance the sense of place and identity of the Metro Area.

The Plan goes on to describe the future state of the plan area in this way:

The Milpitas Metro area is a unique and vital hub in Silicon Valley. It is a major transportation crossroads, including transit stops served by BART, VTA light rail, and bus, and it includes major roadways and highway access. It is also emerging as Milpitas's densest urban center, featuring new multifamily development, a range of shopping opportunities, and a planned Innovation District... Milpitas Metro will be an urban, future-forward center that supports a balanced mix of housing, retail, and employment uses; provides safe multimodal connections and public spaces; and is distinguished by urban design standards that create a visually memorable environment.

ANALYSIS

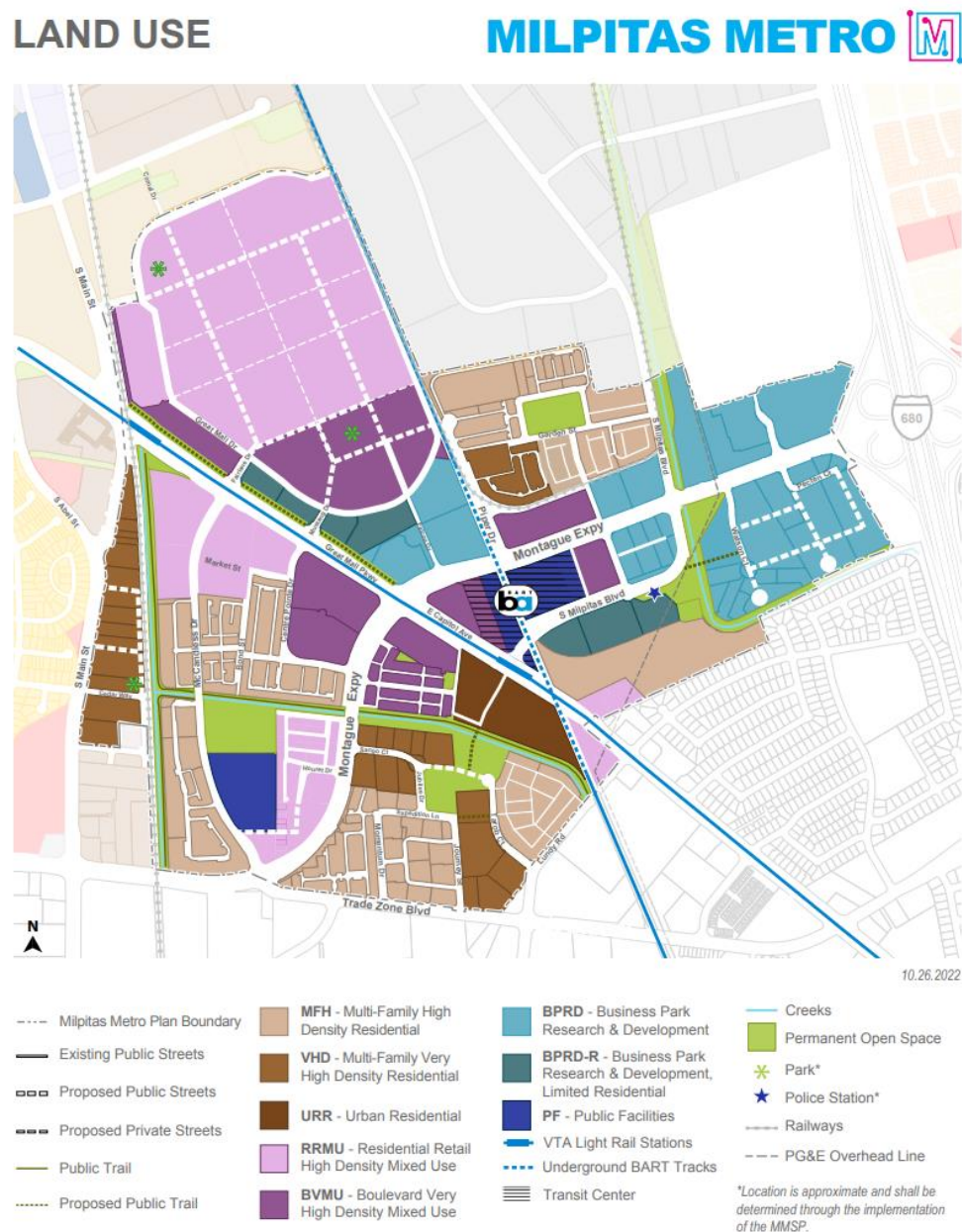
The proposed Metro Plan, as an update of the 2008 TASP, incorporates changes to address current and future economic and social conditions that have evolved since the original plan was adopted in 2008. The recently adopted Milpitas General Plan, as well as the proposed changes to the abutting Midtown Specific Plan, present planning implications for the new Metro Plan area. In addition, economic cycles and conditions influence land use needs, such as increases in residential sites and densities, as well as higher intensity employment and service commercial possibilities.

Specifically, two significant factors contribute to a new perspective on the potential of the Metro Plan to contribute to meeting development demands in the City:

- 1) The opening of the BART heavy rail transit in the Milpitas Transit Center and its connection to both the VTA light rail/bus system and to the greater Bay Area, and;
- 2) The State mandated Regional Housing Needs Allocation (RHNA) process, particularly the 6th Cycle RHNA that the City is currently preparing a Housing Element in response to that increases the need for the City to identify sites and support higher density housing projects at all income levels.

Figure 1 below is the updated land use diagram for the Milpitas Metro area.

Figure 1: Metro Specific Plan Land Use Diagram



The Metro Plan promises to bring several significant changes to the transit area, including the following:

Geographic Expansion of the Plan Area:

Together, the two proposed Metro Plan annexations increase the Plan area to 510 acres.

The 2008 TASP covered 437 acres of land surrounding the future Milpitas Transit Center, envisioning an area that could provide housing, jobs and services all within walking distance of each other and of the future transit center. With the geographic expansion of the Plan, the six distinct planning Subdistricts identified in the TASP have been reconfigured and renamed as five Districts – the Great Mall, the McCandless, the Tango (Sango and Tarob Court areas), the Piper and the Innovation District.

Innovation District

The expansion of the Metro Plan area eastward toward Interstate 680 would annex about 60 acres on both sides of Montague Expressway for the pending development of an Innovation District that was highlighted in the General Plan update process and adoption. The Innovation District is primarily intended as the focus for commercial development with a focus on technology and research that provides employment opportunities and revenue generation for the City. It also covers the Transit Center, includes the existing hotel site and contemplates future hotels when demand calls for them. It also includes some existing and future housing in a mixed-use environment close in to jobs and transit.

South Main Street Expansion

To the west, the addition of approximately 13 acres of lands along S. Main Street captures some City-owned parcels and other private properties that were already recognized as housing sites under the City's current Housing Element and the Midtown Specific Plan. Both documents are concurrently being updated, and the Midtown planning area boundaries are re-evaluated to reflect re-focused objectives. Bringing these few properties into the Metro Plan would recognize their contributions to and benefits from being a part of the pedestrian-oriented development that characterizes the Metro Plan area.

Increased Housing Potential:

The Metro Plan will add the potential for an additional 7,000 housing units over its planning term through 2040.

The original TASP anticipated 7,109 new units would be added to the Plan area, adding to the existing 468 units in the previously constructed multi-family project on East Capitol Avenue, *The Crossings*, for a total of 7,522 residential units in the Plan. Over 6,900 of these units were entitled and/or constructed by 2019. Much of the development since 2008 have been townhome units at the lower end of the allowable density range (20 du/ac).

While the City is already aware of the need for housing in the Bay Area, the sixth RHNA cycle calls for the City to identify and support at least 6,713 more housing units in this 8-year RHNA planning cycle 2023-31. This need must be accommodated in the City's updated Housing Element, including housing at all income categories, and the City must identify sites and policies that will allow such housing to be realized (although the City is not required to ensure the actual construction of these units).

Remaining undeveloped sites identified now in the Metro Plan will present opportunities to develop housing at yields no lower than those that were identified in the TASP (or the Midtown Plan). This keeps the City in compliance with California Government Code Section 65863 by ensuring capacity for the required number of affordable housing units. Some sites along Montague Expressway near the Transit Center are to be re-designated for office/employment uses, and more housing areas will need to be accommodated elsewhere in the Plan area, including at such time as the owners of the Great Mall might take advantage of economic conditions that will support housing close to retail services and jobs. The Great Mall District by itself is seen as capable of producing at least 3,000 housing units by 2040. The City collaborated with Simon Properties, owners of the Great Mall, while writing the plan, and provided a framework for the development of the Great Mall in the plan.

The South Main Street area, including the expansion southward, was originally intended to increase both height and density allowances, but in the last reading on April 19, 2022, the Council expressed concern about increasing heights given the single-family residential uses in the Pines neighborhood across South Main Street. While State law prohibits the City from reducing existing residential development allowances as described above, the Plan has been recalibrated to recommend no increase in heights along South Main Street, retaining the current allowance of 75 feet.

The existing TASP anticipated little change to the Great Mall site during the course of the Plan, through 2030. But in the Metro Plan, recognizing today's economic environment, the physical format for commercial activity and the addition of housing are significant factors for commercial property owners and for businesses looking to be in these areas. The Metro Plan recognizes these forces and increases the opportunities in the Great Mall District to allow a wide range of uses. The Plan anticipates that both the City and the property owner of the Great Mall will want to plan in more detail how future redevelopment of the Great Mall could occur in the best interests of both parties, retaining commercial services and enhancing the value of this land, such that a comprehensive Development Agreement (DA) would be a likely path to follow up on how to implement the Metro Plan in that area following Metro Plan adoption. The Metro Plan establishes a framework articulating the initial expectations of the City relative to the redevelopment of the site and will serve as a strong foundation for a future Development Agreement.

Increased Potential for Employment:

The Metro Plan proposes three million square feet of new employment space and over 10,700 potential jobs.

The 2008 TASP recognized the value of the future Milpitas Transit Center and its regional BART service to support significant commercial and employment development. The original TASP envisioned over 993,000 square feet of new business-oriented development, but to date, only about 10,000 square feet of that development has been realized. Even though regional BART service is now operating and is seen as a significant driver of commercial interest in the Plan area, the Covid-19 pandemic greatly altered the timing of the positive influence of the transit system on land values and development demand.

The Metro area, particularly with the eastward boundary expansion of the Innovation District, can add to the original commercial opportunity by adding more commercial/ employment space. It is anticipated that such development could bring new high-paying jobs to the City, particularly providing new opportunities for Milpitas citizens. Significant job growth near new and existing

residential development can also be expected to reduce VMT and enhance the City's overall fiscal and environmental sustainability.

Increased Potential for Service Commercial:

The Metro Plan proposes 300,000 square feet of new retail space and 700 new hotel rooms to be added to the TASP development scenario, resulting in about 1,500 new jobs.

The original TASP anticipated adding approximately 287,000 square feet of new space that would provide needed retail sales and services for the populations living, working and visiting the City generally and the TASP area specifically. 187,000 square feet of that space has been entitled and/or built, reflecting a demand for such services.

With the Metro Plan, some 300,000 square feet more of retail commercial and services space would be developable as part of new mixed-use developments. In addition, with the realization of new commercial/employment development, the possible addition of 700 new hotel rooms could be realized. New jobs would come as a result of such development.

Greater Provision of Public Infrastructure:

The Metro Plan will expand the BIP to include new infrastructure needs to serve all of the Plan area, and particularly to meet the needs of new development in the expanded areas.

The TASP initiated a Basic Infrastructure Program (BIP) that identified needed public improvements, such as new roads, utilities pedestrian/bicycle ways and parklands to serve the new residential development as well as businesses and visitors. Some improvements have been completed; others have partial funding or are slated to be constructed.

The new Metro developments, particularly those which will be located in the annexed Plan areas, will need additional infrastructure improvements to serve them and to better connect them to the overall Plan area, such as new roads, bridges, parklands and other services and amenities.

The parkland objectives of the TASP were not met in terms of land acreage, perhaps due in part to the abundance of lower townhouse density project utilizing substantial land area and lesser fee accumulations. The new parklands measures and policies would apply standards for multi-use facilities with less reliance on past acreage/population ratios, instead focusing on a quality of space approach to serve this more urban place in the City. New parkland facilities or improvements across the City might be funded by TADIF fees (see revenues section below) where findings can be made to show the benefit to Metro residents (e.g., large athletic fields, community facilities, etc.).

Enhanced Revenues to Support Public Infrastructure, Services and Amenities:

The Metro Plan anticipates a follow-up nexus fee study to have a thorough analysis of needed funding for the current and new public infrastructure, to occur after adoption of the Metro Plan.

The TASP recognized that development generally enhances the tax revenue stream to the City that provides funds for the infrastructure, services and amenities for all residents, employees and visitors. It also recognized that funding needed to pay for the public improvements that more specifically benefit the Plan area projects should be paid by the projects developing in that area. To meet that objective, the City crafted the Transit Area Development Impact Fee (TADIF) to receive and

allocated development fees to pay for infrastructure within the Plan area that specifically benefits that development.

A nexus fee study was prepared that aligned TASP area infrastructure funding needs with the benefits derived by each type of project to establish an array of fees that would be paid upon issuance of building permits (typically) as proportional payment for the needed infrastructure. There is an automatic annual increase in this fee structure, but an updated nexus fee study will follow Plan adoption that will reset cost/benefit assumptions and recognize new needed facilities and new development that could help pay for these.

In addition, a property tax increment for a Community Facilities District (CFD) was added to residential properties, in addition to regular property tax obligations, to help pay for maintenance of facilities, police and fire service personnel and other City service demands coming about as a result of the developments. This tax increment program has an automatic escalator to address increasing costs.

FINDINGS FOR APPROVAL (OR DENIAL)

In making a recommendation to the City Council regarding adoption of the Metro Plan, the Planning Commission should make findings to support its recommendations. A resolution proposing suitable findings in support of the Metro Plan adoption has been prepared and is attached to this document for the use of the Planning Commission.

Key findings in the resolution include, in brief terms, the following:

General Plan Consistency

The General Plan was updated and adopted in early 2021 and specifically deferred land use objectives and policies to the pending Milpitas Metro Specific Plan within the previous TASP boundaries. The prior General Plan had similarly recognized the TASP as the guiding land use document for the land area governed by that Plan. The 2021 General Plan also establishes an Innovation District Overlay. During the Planning process, the City chose to unify the Metro Plan area and the Innovation District, and to include select parcels along Main Street in the Metro Plan rather than the Midtown Plan. The plan continues to be in keeping with General Plan land use goals and implementation of the Innovation District policies.

The Metro Plan, as a subordinate land use plan, is consistent with the General Plan as it promotes corresponding big picture land use goals in its policies, including protecting existing single-family neighborhoods, promoting economic vitality and job growth, encouraging mixed-use development that includes new housing and optimizing land uses near and in support of transit.

Further, as a compact part of the City with a mix of uses, the Metro Plan is consistent with General Plan goals related to reducing vehicle trips and enhancing pedestrian and bicycle connectivity, promoting sustainability and conservation of resources, supporting public facilities and services and enhancing parks and open space resources.

The General Plan will be amended to include the updated boundaries of the Metro Plan area that include the Innovation District and parcels along Main Street following plan adoption.

Zoning Ordinance Consistency

The Metro Plan relies upon the current Zoning Ordinance districts and stipulations but will also call for new zoning designations that alter existing regulations to allow for greater density and intensity of development, as well as to formulate different design allowances or restrictions more in keeping with the more urban form promoted by the Metro Plan.

Public Benefits

Development enabled by the Metro Plan is obligated to provide funding for or development of the public infrastructure, facilities and services needed to support living, working and visiting in the area. This avoids or minimizes the financial impact of new development on existing homes and businesses in the City. The Basic Infrastructure Program (BIP) and the Transit Area Development Impact Fee (TADIF) provide the mechanism to achieve this.

The costs of the development of new or upgraded roads, utilities, parks and other public benefits are covered by each new development on a proportional share basis.

Housing Needs and Complete Neighborhoods

The TASP has promoted the entitlement and construction of more than 95 percent of its goal of 7,109 new housing units. The Metro Plan contemplates an additional 7,000 new housing units where homes, jobs, services and transit all are within walkable distances of each other. This can improve the opportunities for affordability as well as generally providing needed housing in the City and the region. The mix of uses and the higher densities enabled by the Metro Plan, where such opportunities are limited elsewhere in the City, both help Milpitas achieve its housing objectives and create a more lively and active walkable neighborhood unique in the City.

Employment Needs

The Metro Plan proposes to allow up to 3 million square feet of office/employment space, including 500,00 square feet of industrial space, and 300,000 square feet of retail development, all as an addition to the commercial space permitted by the original TASP development scenario (993,843 square feet of new office and 287,075 square feet of new retail space).

The completion and opening of BART at the Milpitas Transit Center with its connection to the VTA Light Rail transit line, although its beneficial commuter effect has been compromised by the Covid pandemic, promises the success of the Metro area as an employment center. Recent economic development data indicates that just 12 percent of employed Milpitas residents work within the City; the development of more employment opportunities inside the City will offer more local employment for current and future Milpitas residents.

Infrastructure Development

New development within the TASP and Metro areas has and will be responsible for the development and construction of the infrastructure that both supports and benefits the TASP/Metro projects. This includes new and improved roads, pedestrian/bicycle connections, utilities and parklands. The new public infrastructure provides facilities and services not only for residents, workers and visitors within the Plan area, but also for the greater community.

City Revenue Needs

Development in the TASP/Metro area pays impact fees (TADIF fair share obligations) or may construct public infrastructure, such that this avoids or limits the use of General Fund resources to

benefit this new development. In addition to funding the upfront costs of infrastructure, the residential development within the Plan area provides an annually levied tax increment funding source for maintenance and services (Community Facilities District – CFD 2008).

ENVIRONMENTAL REVIEW

The Milpitas City Council certified an Environmental Impact Report (SCH #2006032091) for the Transit Area Specific Plan in 2008 in accordance with the California Environmental Quality Act (CEQA). The certified Program EIR for the TASP analyzed environmental impacts of the proposed development and the TASP policies related to development.

The Subsequent EIR, also a Program EIR, prepared for the Metro Plan update analyzes of changes in the original plan (TASP) with respect to a new development scenario and updated or changed policies in document. These changes generally involve four key components: 1) geographic expansion of the Plan area; 2) changes in land use and zoning designations, 3) added residential and non-residential populations in the area, and 4) extension of the time horizon from 2030 to 2040.

An Initial Study was performed to determine what potential environmental impacts resulting from the Plan update found that 11 typically considered areas of study would have less than significant effects. Due to the proposed changes in this update, the following 9 subjects were fully analyzed in the SEIR: air quality, greenhouse gas emissions, land use and planning, noise, population and housing, public services and recreation, transportation, utilities and service systems and cumulative impacts. Plan policies address impacts identified in each of these categories and are applied to individual projects as they come forward.

Some impacts cannot be fully mitigated and require that Council adopt a Statement of Overriding Consideration demonstrating that the value of the Plan outweighs any remaining adverse effect. There are remaining impacts that must be overridden in the areas of air quality, greenhouse gases and noise, including cumulative effects in each of these.

PUBLIC COMMENT/OUTREACH

City staff and the project consultant provided numerous public notice and outreach efforts over the course of the Plan preparation, including through notifications on the dedicated Metro website. of the application per City and State public notice requirements. A notice of this hearing was published in the Milpitas Post on October 29, 2022 and posted at City Hall and on the City's website at www.milpitas.gov. At the time of writing this report, no comments have been received regarding the proposed Metro Plan.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution No. 22-025 recommending that the City Council certify the Milpitas Metro Plan Subsequent Environmental Impact Report (SEIR) (SCH#:2006032091) and adopt the Milpitas Metro Specific Plan.

ATTACHMENTS:

A: Resolution No. 22-025

B: Weblink to [Draft Milpitas Metro Specific Plan](#)

C: Weblinks to Draft Subsequent Environmental Impact Report (EIR):

1. [FSEIR](#) (Responses to Comments, Traffic Operations Report, Public Draft MMSP)
2. [MMRP – Mitigation Monitoring and Reporting Program](#)
3. [Findings](#)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Review the List of Agenda Item Requests From Individual Councilmembers and Provide Direction to Staff, Through the Prioritization Process, on Groups 1 Items; Provide Additional Clarification to Staff, If Any, on Group 2 Items (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; Matt Cano, Deputy City Manager, 408-586-3012)
Category:	Leadership and Support Services
Meeting Date:	2/7/2023
	<u>Recommendation:</u> (1) Review list of agenda item requests from individual Councilmembers and providedirection to staff, through the prioritization process, on which Group 1 items should be advanced; (2) Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items

Background:

At City Council meetings, under the Announcements section, Members of the Council request items they would like the full Council to consider. These items are placed on a list for a future Council discussion and action. On January 19, 2021, at a Special City Council meeting, in order to streamline the process, Council provided direction to staff to bring forward individual Council agenda item requests to Council, for prioritization, on a quarterly basis.

On January 10, 2023, City Council approved a City Council Request Prioritization Policy which guides the prioritization process.

The last prioritization was held on September 6, 2022, the subsequent prioritization was deferred until February pending Policy adoption by Council. Since the beginning of this process, Council has reviewed 246 items. Links to prior prioritization reports and minutes are included under Attachments.

Analysis:

Staff is now bringing forward the next prioritization of items that were requested by Council between June 21, 2022 and January 10, 2023, including the status on items approved previously by Council.

As shown in Attachment 1, a total of 42 items, some of which were discussed during the prior prioritization discussion, have been grouped into four categories differentiated by level of effort and status of the agenda request as outlined below:

Group 1 – Items that have not been initiated; will require more than four hours of staff time; and may require additional funding or resources (5 items).

Group 2 – Items that have not been initiated but will require less than 4 hours of staff work (4 items).

Group 3 – Items that are currently underway and/or already included in workplan (20 items).

Group 4 – Items that have been completed, postponed indefinitely, or withdrawn (13 items).

Prioritization Process

There are a total of 9 new items since June 21, 2022. Of these 9 items, 5 items are in Group 1 and 4 items are in Group 2

Similar to the prior prioritization process, the new Group 1 agenda item requests are identified in Attachment 2. Since these requests have not yet been discussed in detail, staff has made an attempt to note alignment with Council priority areas to the extent possible. As part of Attachment 2, staff provided a write-up which includes the lead and supporting departments, estimated resources and cost to complete the work, description of work effort, any actions taken to date, clarification or direction sought from Council, and other additional considerations including impacts on other workplan items. To the extent possible, staff sought clarification from members of the Council sponsoring the request; however, some items may still need additional clarification from the requesting Councilmembers. To facilitate Council prioritization, Group 1 items have been further categorized into three sub-groups: Ordinances and Policies, Projects and Programs, and Miscellaneous.

For the five Group 1 items, the total annual costs are estimated at \$154,850. While there is no direct cost listed for the business outreach item, it is expected that this item will take approximately 20 hours of staff time divided amongst multiple staff members. Since staff is currently working on the development of the FY 2023-24 Proposed Budget and the 2024-2028 Proposed Capital Improvement Program, staff is also seeking direction from Council on whether any prioritized items that need additional funding and resources should be included in the development of the budget.

Since Group 2 items (see Attachment 1) require less than four hours of staff time, these can be advanced without requiring a majority vote; however, Council may wish to provide additional input or direction on these items. For Group 3 items, which are underway and/or already included in staff workplans, staff provided an update in Attachment 1. The status of Items completed, postponed indefinitely or withdrawn prior to June 21, 2022, are presented as a separate attachment (Attachment 3).

Voting Process

In accordance with the adopted City Council Prioritization Policy and the number of Group 1 items, staff proposes that the Council prioritize no more than 2 items.

Round 1

Each member of the Council will be asked to prioritize their top four items from Group 1. Councilmembers will be provided hard copies to help them review and complete the preliminary prioritization and electronic voting will be conducted on mobile devices.

All items receiving three or more votes will move forward. If the number of items receiving three or more votes is two or greater, the prioritization process will be deemed complete. If the number of items is less than two, the remaining items will be prioritized as described in Round 2.

Round 2

In case items receiving three or more votes are less than two in number, Councilmembers will be asked to prioritize the remaining items so as to develop a top two list. Each member of the Council will be given the number of votes equivalent to two minus the number of items prioritized for staff work at the completion of Round 1. For example, if after Round 1, the Council agreed on advancing one item, one additional item will require prioritization. Therefore, each Member of the Council will be asked to vote on one item. Any item receiving three or more votes will be added to the prioritized list. If the total number of items on the list is one or greater, the prioritization process will be deemed complete.

Additional Rounds, if needed

If the total number of prioritized items after Round 2 is less than two, all remaining items which received at least one vote will be prioritized through additional rounds of voting. Items which receive zero votes in a round will be eliminated from the subsequent round of voting.

Please note that any items that do not advance through this multi-step prioritization process will be removed from the active list and would have to be resubmitted through Announcements for the next prioritization discussion scheduled for June 2023.

Policy Alternative:

Not applicable

Fiscal Impact:

For five Group 1 items, the total annual costs are estimated to be \$155,000. Based on Council direction, staff will consider prioritized items that require new funding as part of the FY 2023-2024 budget process.

California Environmental Quality Act:

This item is not a Project under CEQA in accordance with CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) as it can be seen with certainty that a general discussion of funding priorities by the City Council will not have a significant effect on the environment. Further, the item is also not a Project pursuant to CEQA Guidelines Section 15378(b)(4) as it is a government fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Although the use of funding will be discussed for various potential projects, any project scope and potential environmental analysis would be speculative to analyze at this time and future environmental analysis will be conducted for the various potential projects prior to the City making any commitment or approval of any project.

Recommendation:

1. Review list of agenda item requests from individual Councilmembers and providedirection to staff, through the prioritization process, on which Group 1 items should be advanced.
2. Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items.

Attachments:

1. List of Councilmember Agenda Item Requests
2. Information on Group 1 items
3. List of Completed, Postponed Indefinitely, or Withdrawn Items
4. Links to Prior Prioritization Reports and Minutes
 - a. [March 16, 2021 Agenda and Minutes](#)
 - b. [August 9, 2021 Agenda and Minutes](#)
 - c. [January 11, 2022 Agenda and Minutes](#)
 - d. [May 3, 2022 Agenda and Minutes](#)
 - e. [September 6, 2022 Agenda and Minutes](#)

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

ATTACHMENT

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 1 – Items that have not been initiated; will require more than four hours of staff time; and may require additional funding or resources.								
Ordinances and Policies								
1	City Attorney or City Manager to draft a written policy regarding foreign language spoken at the dais	Chua	9/20/2022	Yes	CAO/CMO		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
Projects and Programs								
2	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	Yes	Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
3	City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city.	Chua	8/9/2022	Yes	CMO/Economic Development/Public Works/Engineering		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
4	City Manager to look into underutilized areas of parks or a portion of parks not being used and develop for use in the future.	Chua	8/16/2022	Yes	Engineering/Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
5	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe.	Montano	8/16/2022	Yes	Engineering/Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
Miscellaneous								
	None							

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 2 – items that have not been initiated but will require less than 4 hours of staff time								
6	Look into the impact of and how the City can compensate for the massive number of layoffs in the Bay Area. Staff consider how the City can help residents affected by layoffs, reach out to those affected and show them city programs.	Chua	12/6/2022	Yes	Finance/Economic Development		February 2023 update: Staff, in partnership with NOVAworks, provided information about past and upcoming layoffs, wage and labor data as well as job and career resources available to Milpitas residents and businesses at the Economic Development and Trade Commission meeting on January 9, 2023. City staff is continuing to partner with NOVAworks by promoting their upcoming layoff assistance webinars to assist with career transition and unemployment services and resources. One webinar took place on January 24 and other webinars are scheduled to take place on February 7 and February 21.	
7	Prepare a brief summary of previous Council action related to Sunnyhills from the first renewal to present day	Barbadillo	12/20/2022	No	Building Safety and Housing		On December 19, 2022, the City sent a letter to HUD in support of the owner's 5-year renewal of its HUD contract. And on December 29, 2022, an Info Memo was sent to the City Council with the latest update.	
8	Schedule an additional ADU workshop	Chua	9/6/2022	No	Planning/Building Safety and Housing		February 2023 update: no change Prior update: Similar to last year, staff will support any webinar hosted by a community partner.	
9	Staff explore eliminating or waiving the fee for the gym at the Milpitas Senior Center	Chua	10/18/2022	No	Recreation and Community Services/Finance		February 2023 update: no change Prior update: Staff will evaluate this item consistent with the Recreation and Community Service Cost Recovery City Council Policy and bring it back to Council for consideration as part of approval of the FY 2023-24 Proposed Master Fee Schedule.	

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 3 - Items that are currently underway and/or already included in workplan								
10	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees	Phan	2/16/2021		Economic Development; Finance		February 2023 update: See update to item titled "Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement" Prior updates: Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report.	
11	Create a plan for future solar paneling at City facilities	Montano	3/1/2022		Public Works		February 2023 update: As discussed with the City Council at the 1/31/2023 Budget Study Sessio, staff will continue to explore grant opportunities to install additional solar panels on City facilities. However, staff will only proceed with further development if this grant funding is identified so work (other than reviewing grant opportunies) is on hold at this time. Prior Updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting; Discussed at the May 10 budget meeting and approved funding of \$25,000 in the 2022-23 budget. Discussed at 1/31/2023 Budget Study Session, Council directed staff to seek grant funding to move this item forward.	
12	Establish a fund for real estate acquisitions	Montano	6/7/2022		Economic Development, Finance		February 2023 update: At the January 31, 2023 City Council budget hearing, staff was directed to update the City's Fiscal Policies to provide an option for a portion of future surplus funding to be reserved for real estate acquisition. Staff will include this edit to the Fiscal Policies as part of the Proposed Fiscal Year 2023-2024 Operating Budget.	
13	Establish State historical designation for the Sunnyhills community	Tran	6/7/2022		Recreation, City Manager		February 2023 update: Based on staff research, the best way to try for a Historical District Designation is at the National Level. This can be wrapped into the approved CIP for the Historical Resources Plan update or through grant consultant California Consulting. Prior updates: Request will be included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program.	
14	Explore an ordinance or policy to reduce thefts and increase security in the commercial retail parking areas	Chua	4/5/2022		Police, Economic Development		February 2023 update: CAO conducting legal review of policies requiring businesses to hire security/install cameras Prior updates: Item will be brought forward as part of the next City Council	Additional Staff Resources and Funding Needed
15	Explore the policy for locking mechanisms on shopping carts for large commercial businesses	Tran	4/19/2022		Bldg. Safety & Housing, Planning, Economic Development		February 2023 update: MMC V-13-140 Mandatory Plan to Prevent Cart Removal includes requirement for physical measures to prevent cart removal however V-13-120 provides an exemption for cart owner that agrees to enter into a contract with a City-designated retrieval service. Staff suggestion to Council is to review this exemption and repeal it which would require all cart owners to have physical measures to prevent cart removal. Business outreach was conducted to grocery store operators in Q2 of 2022 to inquire about shopping cart removal and theft. Grocery stores contacted were Ocean Supermarket, Seafood City Supermarket, Chung Chou City, Milpitas Grocery Outlet, and 99 Ranch Market. Prior updates: The current shopping cart ordinance Item will be brought forward as part of the next City Council additional workplan items prioritization in August/September.	February 2023 update: no additional staff resources and funding needed Prior updates: Additional Staff Resources and Funding Needed.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 3 - Items that are currently underway and/or already included in workplan								
16	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022		City Manager, Recreation		February 2023 update: No additional funds required to complete the internal review. Internal review can be done by late 2023. Prior updates: Approved during Spring Quarterly City Council Workplan Items Prioritization Discussion on 5/03/2022.	
17	Funding to hire a consultant for the Sunnyhills Historical Designation on a state level	Tran	6/7/2022				February 2023 updates: No change Prior updates: Request will be included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program.	
18	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	10/19/2021		Recreation		February 2023 update: No additional funding needed. Need final names from City Council. Prior updates: Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.	
19	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	8/17/2021		Recreation		February 2023 update: Maria Lemery is to be included on the Senior Center Mural. It's not an actual "bust" Prior update: Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.	
20	Look into bringing back a roller rink	Montano	8/5/2021		Recreation		February 2023 update: Monies budgeted. Roller Rink bids coming back end of Feb/early March. Event schedule for August 4 & 5, 2023. Prior updates: Approved to move forward at the 1/11/2022 Council meeting. Funding for the program will need to be prioritized through the FY 22-23 budget process; Discussed at 5/10/2022 budget meeting and approved \$100,000 funding for a two-day event in 2023.	
21	Look into opening up the Senior Center on Saturdays for half a day	Chua	8/5/2021		Recreation		February 2023 update: Funding for Senior Center hours will be incorporated in the FY23-24 budget. Prior update: As presented by staff on 1/11/2022, this pilot is scheduled for completion in fall 2022. In preparation for the pilot, staff will issue a survey to seniors asking for the types of services they are seeking; hire staff based on the feedback; and start the three-month pilot in September 2022 until mid November 2022.	
22	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022		Recreation, Public Works		February 2023 update: At the January 31 2023 City Council budget hearing, City Council votes to consider this item in the FY 2023-24 budget development. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in August/September .	Additional Staff Resources and Funding Needed
23	Present Quarterly or Monthly crime statistics on the Homekey Project	Chua	6/7/2022		Housing		February 2023 update: no change Prior update: Presentation is scheduled for the August 16 City Council Meeting as part of the Project Homekey item. Quarterly reporting started in August 2022.	

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 3 - Items that are currently underway and/or already included in workplan								
24	Request for Crossing Guards at McCandless and Montague Expressway and review wages for Crossing Guards	Montano	4/5/2022		Public Safety		February 2023 update: Info Memos were sent to the City Council on 6/13/2022 and 1/27/2023. At the January 31st budget study session, council voted to move to a contract model. Prior updates: A citywide traffic study, which includes school aged pedestrian counts around schools in the City including the McCandless and Montague Expressway intersection has been conducted. Per the Information Memorandum issued on June 13, the City will perform school aged pedestrian counts around schools in the City including the McCandless and Montague Expressway intersection at the beginning of the 2022-23 school year and report the findings to the Transportation Subcommittee late fall.	
25	Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement	Phan	11/16/2021		Economic Development, Finance, City Attorney		February 2023 update: Requires legal analysis of 1:21-cv-07695-AT-SLC DoorDash, Inc. v. City Of New York and 3:21-cv-05502-EMC Doordash, Inc. et al v. City and County of San Francisco. Doordash v. NYC remains pending and may settle the law on the matter. CAO will prepare confidential memorandum for the council. Prior updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting	
26	Requested an appropriation in an amount not to exceed \$250,000 to procure a contract to address the streetlights that are pending fieldwork.	Tran	2/1/2022		Public Works		February 2023 update: no change Prior update: At this time, staff has sufficient Council approved resources to address the remaining streetlight outages; however, will bring relevant actions for Council consideration, if needed.	
27	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	4/6/2021		Economic Development		February 2023 update: Staff is tracking this local business participation item as part of Council Priority Item 3 in Group 1 on this list. Prior updates: At the 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. City Attorney to weigh in.	
28	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021		Recreation, Public Works		February 2023 update: VTA is not responsive to requests from the City to meet on this project. A discussion on other locations or projects with Council may be needed. Prior updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved at the 5/03/2022 meeting; discussed funding at the 5/10/2022 budget meeting and approved \$100,000 of funding for only one site.	
29	Staff to provide information on a landmark policy for the City of Milpitas	Tran	3/16/2021		Engineering		February 2023 update: This is part of the CIP for updating the Historic and Cultural Resources Plan. Prior updates: 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; The funding for the assessment of historical and cultural resources and development of a landmark policy will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022. This project will be scheduled to begin in FY 2022-23.	Item was brought to Council during the the 2023-27 5-Year CIP adoption process, however Council determined not to fund or advance this task.

**MILPITAS CITY COUNCIL
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FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 4 – items that have been completed, postponed indefinitely, or withdrawn								
30	Consider change in term limits for Mayor + Councilmembers	Montano	6/16/2020		City Attorney, City Manager		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. Scheduled for 3/15/2022; rescheduled for 4/05/2022; 4/05/2022 Council gave direction to move forward with Councilmember term limits and discuss the Mayoral seat at a later date; Discussed at the 5/10/2022 budget meeting and had a consensus not want to move forward with a ballot measure for the Mayor term limit; Councilmember term limits scheduled for June 7; on June 21, 2022, the Council approved Resolution No. 9178 submitting to the qualified voters of the City of Milpitas a measure amending the Mayoral and Councilmanic Term Limits at the November 8, 2022 General Elections. The election results for Measure F showed a majority of the voters (12,786 YES; 3,465 NO) voted in favor of the measure.	
31	Explore a lease for the vacant land adjacent to the Library for City use	Tran	1/18/2022		City Manager, Economic Development, City Attorney	 	February 2023 update: At the January 31, 2023 City Council Budget Study Session staff was directed to drop this item from the priority list. Prior Updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting.	
32	Local Boy Scouts Fee Waiver for Eagle Scout Ceremony	Tran	6/7/2022		Recreation		Fee waiver was approved on September 20, 2022	
33	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	8/17/2021		Recreation		Staff will include the stem cell donor information in regularly scheduled wellness event. Staff made contact with the group and were told that Seniors were not good Stem Cell donors but would bring information to share at the Fall Health Fair. The contact did not bring the information.	
34	Prepare a report on ghost guns; engage in legislative advocacy regarding ghost guns; and incentivize ghost gun buybacks at the May buyback event.	Dominguez Tran	4/5/2022		Police		An Information Memorandum was distributed on August 12, 2022.	
35	Prepare Vision Zero Action Plan	Tran	6/7/2022		Engineering, Police	   	February 2023 update: At the January 31, 2023 City Council budget hearing, the City Council supported staff's recommendation to drop this item from the priority list due to the expense of the study as well as the fact that many traffic safety initiatives and projects are already underway in the City of Milpitas.	
36	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	4/20/2021		Planning		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. Guidelines and information regarding little free libraries have been posted on the City's website.	
37	Requested the City Attorney's office explore encampment ordinances from the City of Oakland, Los Angeles, or other regional cities and would like a discussion on the existing policies to be brought back before the July recess.	Tran	2/15/2022		City Attorney		4/19/2022 direct the City Attorney to make the recommended changes to the Municipal Code to remove and prohibit property in public. The ordinance was adopted by the City Council on September 20, 2022. The ordinance went into effect on October 20, 2022.	
38	Requested the City create a youth scholarship fund for under privileged kids to play sports	Montano	5/17/2022		Recreation		As part of the adoption of the FY 2022-23 Budget, the City Council allocated \$20,000 for this program. Staff will bring forward a policy framework for this program for Council approval in September 2022. This item was approved by the City Council on October 18, 2022.	
39	Requested the City extend the outdoor dining options through March of next year	Phan	9/21/2021		Planning	 	Zoning Ordinance with new standards and regulations for Outdoor Dining adopted by Council on 12/06/2022.	

**MILPITAS CITY COUNCIL
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FEBRUARY 7, 2023**

Item # 9.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 4 – items that have been completed, postponed indefinitely, or withdrawn								
40	Requested that staff study the placement of a City sign for the Milpitas Police Department and explore the cost of a new sign	Dominguez	1/18/2022		Public Works, Police		February 2023 update: Lighted signage for the Police Department and Public Works and IT was installed and completed the week of January 24th 2023. Landscaping was completed in the Summer of 2022. This item is completed. Prior update: Staff has been working on upgrading signage and landscaping around the Police Department and Public Works Building. Lit-up signs mounted on the building are scheduled to be installed by the end of August.	
41	Review City policy on speed bumps	Tran	12/15/2020		Engineering		Presented to Transportation Subcommittee on 02/12/2021; voted on 3/16/2021 to revisit this item; on April 8, 2022 the Transportation Subcommittee provided input on a draft policy. on October 12, Subcommittee recommended bringing a policy amendment for full council consideration. On Nov 1, 2022, city council approved revised speed hump policy.	
42	Staff provide and explain the Project Homekey Management Manual, see if the MOU is being followed including forming an oversight committee, and explore with County to have check-ins of the units. Dominguez indicated it could be included in Council Member Chua's recommendation. Mayor requested to include County in discussion.	Dominguez	6/7/2022		Housing		The item was presented to the City Council in August 2022.	

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS
FEBRUARY 7, 2023**

Item # 9.

ATTACHMENT 2

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 1 – Items that have not been initiated; will require more than four hours of staff time; and may require additional funding or resources.								
Ordinances and Policies								
1	City Attorney or City Manager to draft a written policy regarding foreign language spoken at the dais	Chua	9/20/2022	Yes	CAO/CMO		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
Projects and Programs								
2	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	Yes	Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
3	City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city.	Chua	8/9/2022	Yes	CMO/Economic Development/Public Works/Engineering		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
4	City Manager to look into underutilized areas of parks or a portion of parks not being used and develop for use in the future.	Chua	8/16/2022	Yes	Engineering/Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
5	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe.	Montano	8/16/2022	Yes	Engineering/Recreation and Community Services		February 2023 update: See attachment to this report for further detail. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	
Miscellaneous								
	None							

City Council Referral

(requires more than 4 hours of staff time)

Category and Topic No.	Topic:	Requested by:
ORDINANCES AND POLICIES CC01	City Attorney or City Manager to draft a written policy regarding foreign language spoken at the dais	Vice Mayor Chua
Lead Department/Office	Supporting Department(s)/Office(s)	
City Attorney/City Manager		
Council Priority Areas	Estimated Completion Date	Estimated Cost
Governance and Administration 	Depending on staff resources in FY 2023-2024	Approximately \$81,000 in annual costs if simultaneous interpretation services are provided virtually at Council meetings
		Funding Needed
		TBD
Description of Required Work Effort		
According to Article III, Section 6 of the California Constitution, English is the official language of the State of California such that English should be the language used for the formal portions of any meeting. All business of the Council should be transacted in English. Councilmembers who wish to translate brief comments or questions made in English from the dais into a language that assists limited English-proficient speakers may do so, so long as the comment is first placed into the record in English, and the translation is a true and correct translation of the English comment. Councilmembers may address their constituents in any language they choose outside of a meeting in which the official business of the City is conducted. In addition to using the official language of English, the City may provide access, services, and programs for limited English-proficient speakers such as translation services for limited English-proficient speakers including in person, telephonic, or Zoom translation services. Limited English-proficient speakers must be allowed the same amount of time to speak as other speakers. The translation of a person's comments cannot be counted toward his or her time limit.		
Status Update as of February 2023		
City Staff reached out to translation service companies to get an estimate of fees associated with live interpretation services (Chinese, Vietnamese and Spanish) during City Council meetings.		

City Council Referral
(requires more than 4 hours of staff time)

Item # 9.

Council Clarification/Further Direction Requested

Since the California Constitution already outlines requirements for foreign languages spoken at the dais, staff is seeking Council direction as to whether the Council would still like staff to draft a City Council policy and if so, should it include the use of translation services for Council meetings, at a cost of approximately \$81,000 a year. Costs will be higher if translation services are required to be provided on-site.

Other Considerations

Simultaneous interpretation services in three languages (Chinese, Vietnamese, and Spanish) will cost approximately \$80,850/yr. (**\$2,450** for one 5-hour City Council meeting x 33 meetings). Minimum of two hours is required per language. Mileage expense for onsite request is not included in the estimate. Total cost is based on two translators (per language) for meetings that go beyond three hours.

City Council Referral

(requires more than 4 hours of staff time)

Category and Topic No.	Topic:	Requested by:	
PROJECTS AND PROGRAMS CC02	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Vice Mayor Chua	
Lead Department/Office	Supporting Department(s)/Office(s)		
Recreation and Community Services	CMO, Engineering, Building Safety and Housing		
Council Priority Areas	Estimated Completion Date	Estimated Cost	
GOVERNANCE AND ADMINISTRATION 	Fall 2023	\$24,000	
		Funding Needed	
		\$24,000	
Description of Required Work Effort			
In July 2012, the Teen Center, located at the Milpitas Sports Center, closed due to budget cuts related to the recession and low usage. In November 2018, City Council re-opened the Teen Center at the Milpitas Senior Center with programs and facilities available after school and evenings, and weekends for special events. During the pandemic, Teen support services and workshops were held virtually. In Fall 2021, following the pandemic, Teens began to return to in-person activities. The Teen Center is open weekdays from 4-7pm, and later evenings and weekends for special events, trips and activities. Programming at the Teen Center includes daily staff-led activities, access to the Game Room pool and table tennis tables, Dance Studio for group dance practices, Fitness Room, quiet Homework Space, Holiday-Themed activities and events, Intergenerational classes and activities for Teens and Older Adults/Seniors, and life-skills cooking classes and activities. Special activities and events include Applying to College Workshops, Resume Workshops, Financial Workshops, Volunteer Workshops, Mid-Term and Finals prep and study support nights, College Readiness Workshops, Substance Abuse and Prevention Workshops, and Fall Fiesta night. Average participation varies between program but averages 70+ teen visit per week. The Teen Center programs are also offered off-site, including College Readiness and Substance Abuse and Preventions Workshops at Cal Hills High School. The Recreation and Community Services Teen staff also manage the Counselor-In-Training Summer program at the Milpitas Sports Center, Milpitas Youth Force (MYF), and LYFE Middle School afterschool program at Rancho and Russell Middle Schools. After the closure of the Teen Center space at the Sports Center, the space became the Fitness Annex and is used for Sports Center Fitness classes, trainings and meetings, School break and Summer Camp programs, and			

City Council Referral

(requires more than 4 hours of staff time)

overflow for outdoor camp programs in extreme weather (i.e. heat, rain, smoke)

Two primary options are available moving forward:

- 1) Keep the Teen Center at the current location (same location as Senior Center) and increase place-making efforts in the center as well as continue targeted marketing to teens.
- 2) Research moving the Teen Center back the Annex of the Sports Center

Considerations for option 1 above include:

- Furniture, fixtures and equipment purchases and upgrades.
- Signage and marketing material upgrades.
- Potential minor capital improvements.

Considerations for option 2 above include:

- Cancellation of programs offered in the Fitness Annex and associated revenue losses
- Program Equipment and furniture purchases
- Potential capital improvements, including but not limited to providing enhanced ADA accessibility of the entrance of the Teen Center at the Sports Center
- Furniture, fixtures and equipment purchases and upgrades.
- Signage and marketing material upgrades.

Work on this City Council request would include the evaluation of the following for both alternatives: 1) Facility and site improvements, 2) program and service changes to the community, and 3) Surveying of Teens and preferred program and event location(s) and 4) revenue losses.

Costs are estimated to be approximately \$24,000 for associated 80+ staff hours across multiple City Departments for further research on this effort.

Status Update as of February 2023

No work has been done on this item.

Council Clarification/Further Direction Requested

Other Considerations

Other facility options relevant to this City Council request and could be included as part of the review would be the Sal Cracolice Recreational Facility and a location on the Milpitas High School campus.

City Council Referral

(requires more than 4 hours of staff time)

Category and Topic No.	Topic:	Requested by:
PROJECTS AND PROGRAMS CC03	City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city.	Vice Mayor Chua
Lead Department/Office	Supporting Department(s)/Office(s)	
City Manager's Office	Economic Development Office/Engineering/Public Works	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Economic Development & Job Growth 	Spring 2023	TBD
		Funding Needed
		TBD
Description of Required Work Effort		
Directly including our residents in project and service delivery in our City by allowing local and local/small businesses to bid on City procurements is critical to the long-term success of our community. Multiple phases of work can be performed to ensure strong small and local business participation. The first part would be to gain an understanding of the local businesses that may be available to bid on city projects. Conversations with the Chamber of Commerce and other partners would be an important step in this effort. Additionally, providing the community with information on potential opportunities is critical. It is important for local and local small businesses to be aware of the opportunities that the City has for bidding and awareness of the resources that are already available to assist them in the process. The work effort involved for this could be for the City to host an annual "opportunity awareness" event. To provide local and small businesses with information on upcoming procurement opportunities as well as resources that are available to assist. These events could also provide businesses the opportunity to network with each other. This opportunity awareness event could be a collaboration between multiple City departments.		
Status Update as of February 2023		
Preliminary research on potential options for consideration is underway. Staff will host an opportunity awareness event this year. Information gathered from this event will help potential future programming and costs. This is expected to take about 20 hours of total staff time spread amongst multiple staff members.		
Council Clarification/Further Direction Requested		
Other Considerations		

City Council Referral
(requires more than 4 hours of staff time)

Item # 9.

Category and Topic No.	Topic:	Requested by:
PROJECTS AND PROGRAMS CC04	City Manager to look into underutilized areas of parks or a portion of parks not being used and develop for use in the future.	Vice Mayor Chua
Lead Department/Office	Supporting Department(s)/Office(s)	
Engineering	Recreation and Community Services	
Council Priority Areas	Estimated Completion Date	Estimated Cost
GOVERNANCE AND ADMINISTRATION 	Completed and adopted in November 2021 by City Council as part of the Parks and Recreation Master Plan.	TBD
		Funding Needed
		TBD
Description of Required Work Effort		
Identifying underutilized areas of City parks and identifying alternative park uses was part of the scope of the Parks and Recreation Master Plan Update, Project No. 5115. The Master Plan evaluated the existing parks, facilities, and recreation programming, and identified a planning blueprint to improve, protect, and expand the City's network of parks, facilities, and recreational services for the future. The Master Plan was completed in 2021 and includes recommended improvements and uses for City parks. Specific recommendations for park improvements, including images and cost estimates, begin on Page 62 of the master plan at the following web link: https://www.milpitas.gov/pdfs/Cmcommunications/Website/MasterPlans/ParksandRecUpdate/ParksRecVOL1Chapters1-6_2021.pdf		
Status Update as of February 2023		
Parks and Recreation Master Plan Update was completed in 2021. No additional work related to this referral has been done.		
Council Clarification/Further Direction Requested		
Is this Council request for a different scope in addition to the work done in the Master Plan?		
Other Considerations		

City Council Referral
(requires more than 4 hours of staff time)

Item # 9.

Category and Topic No.	Topic:	Requested by:	
PROJECTS AND PROGRAMS CC05	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe.	Mayor Montano	
Lead Department/Office	Supporting Department(s)/Office(s)		
Engineering	Recreation and Community Services		
Council Priority Areas	Estimated Completion Date	Estimated Cost	
COMMUNITY WELLNESS AND OPEN SPACE 	TBD	\$50,000 is needed to conduct a feasibility study	
		Funding Needed	
		\$50,000	
Description of Required Work Effort			
The “vacant lot” on Adobe Avenue is a dead-end public street that has been closed to vehicle access. There is currently no programmed use for this space located in public right-of-way. In order to consider this site for a community garden, a feasibility study is needed to determine community support, needed improvements and associated costs to construct a proposed garden. The feasibility study would include the following: • Community outreach and survey • Site plan and improvements: planters, wash station, enclosed storage, restroom, fencing, and etc. • Utilities connections: potable water, recycle water, and sanity • ADA access and parking supply/impact The community garden feasibility study cost is estimated at \$50k.			
Status Update as of February 2023			
Not started. A community garden feasibility project needs to be funded to proceed.			
Council Clarification/Further Direction Requested			
Other Considerations			

**MILPITAS CITY COUNCIL
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FEBRUARY 7, 2023**

ATTACHMENT Item # 9.

Group 4 – items that have been completed, deferred, or withdrawn						
1	Add Green Bike Lanes	Tran, Montano	9/17/2019	N/A	Engineering	Included in CIP
2	Adopt Resolution similar to County's re: xenophobia, discrimination	Dominguez	4/21/2020	N/A	CMO, CAO	Added to the consent calendar and adopted Resolution on 5/5/2020
3	Agendize a Flag Raising for India Independence Day	Tran	6/14/2022		Recreation	Item added to 6/21/2022 Consent Calendar
4	Agendize an update to the Lobbyist Ordinance for the next meeting	Chua	3/1/2022		City Attorney	Discussed at 3/15 City Council Meeting; At the 3/15/2022 Council Meeting, City Attorney was directed to bring back a proposed ordinance amendment for further discussion; Council approved the ordinance on 6/7/2022
5	Amend Accessory Dwelling Units (ADU) ordinance to address unpermitted ADUs	Chua	1/5/2021	Yes	Building Safety & Housing, Planning	Safe ADU Legalization Program is launched on 3/24/2022, utilizing ARPA funding. No Ordinance amendment is necessary.
6	Amend Ordinance to remove affordable housing in-lieu fee	Chua	12/15/2020	Yes	Building Safety & Housing, CAO	Amended Affordable Housing Ordinance adopted on 2/1/2022.
7	Below Market Rate (BMR) units - process for selecting applicants	Chua	10/19/2021	Yes	Building Safety and Housing, CAO	Info Memo sent to Council on 1/14/2022 and 3/17/2022.
8	BMR Homes sub-lease option during COVID-19	Chua	1/19/2021	No	CAO, Building & Housing	Info Memo sent on 4/26/2021
9	Bring back a conversation in the budget meeting to fund "walking beats" in the commercial and high crime areas	Dominguez	4/5/2022		Police	At the 4/5/2022 City Council meeting, this item was discussed and there was direction from Councilmember Dominguez to work with the City Manager to find funding sources
10	Bring back update report & discuss status of playing fields for girls' softball in Milpitas	Dominguez	10/20/2020	N/A	CMO, Recreation	Discussed on 02/11/2021, amended JUA for Russell approved on 6/15/2021
11	Celebrate Mexican Independence Day annually on September 16	Montano	6/2/2020	N/A	Recreation	Approved on consent 8/18/2020
12	City to highlight mental health resources on the website	Dominguez	8/17/2021		Recreation	Staff will issue an email this week (week of 7/25)
13	Community Theatre, perhaps with MUSD	Nuñez, Phan	8/20/2019	N/A	Recreation, CMO	Discussed @ CIP Study Session on 4/14/2020; councilmembers asked outdoor amphitheater to be placed into the tail end of 5 year CIP
14	Community Workforce Agreement (PLA)	Phan	2/18/2020	Yes	CMO, CAO, Engineering	Council voted to remove this item from the list on 2/02/2021 per CM Phan's request
15	Consider "Old Town" Main St. revitalization, funding, economic dev., improve area	Montano	12/15/2020	Yes	CMO, Planning, Engineering, Finance	Council provided direction to move forward with revitalization efforts on May 11, 2021. Staff is working on various items related to revitalization and have provided subsequent updates to the Council in October and to the Main Street Revitalization Subcommittee in September and November.
16	Consider adding state certification NEC for electrical work done in the City (safety)	Dominguez	6/30/2020	N/A	Building & Housing	Not needed, staff is certified
17	Consider change in Commission structure, on term limits	Tran	12/15/2020	N/A	Recreation, CMO	Completed on 1/19/2021
18	Consider change in term limits for Mayor + Councilmembers	Montano	6/16/2020		City Attorney, City Manager	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. Scheduled for 3/15/2022; rescheduled for 4/05/2022; 4/05/2022 could have given direction to move forward with Councilmember term limits and discuss the Mayoral seat at a later date; Discussed at the 5/10/2022 budget meeting and had a consensus not want to move forward with a ballot measure for the Mayor term limit; Councilmember term limits scheduled for June 7; Scheduled for June 21 meeting
19	Consider Community Museum and Park on Main St.	Phan	8/20/2019	N/A	CMO	To be considered as part of Specific Plan process
20	Consider expanding the Fee Waiver Policy eligibility to non-profit organizations outside of Milpitas but the events are specific to Milpitas residents	Chua	3/15/2022		Recreation	Council approved the policy revision at the June 21 2022 City Council meeting.
21	Consider funding to implement and create a homelessness encampment response team to be dispatched to encampment sites to address concerns, talked about creating a position to provide mental health assistance, and would like this to be brought back for discussion at the budget meeting	Dominguez	3/15/2022		City Manager, Public Safety, Recreation, Public Works	Direction from Council to bring forward as part of FY 22-23 budget discussion; at the May 10 Budget Study Session Council did not direct to do any further work on this item.
22	Consider naming "Milpitas Hills"	Dominguez	10/20/2020	Yes	Econ. Dev.	Deferred indefinitely on 2/02/2021; did not receive a majority vote from 2/02/2021 council meeting
23	Consider rescinding direction given on 1355 California Circle project and allow the project application to move forward without being tied to a specific plan (Original request was for item to be placed on November 2 agenda)	Chua	10/19/2021		Planning, CAO	Staff is working with the developer on options to move the project forward.
24	Consider satellite consular offices (post Covid)	Montano	6/2/2020	Yes	CMO	Deferred indefinitely per VM Montano's request on 2/02/2021 council meeting
25	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	8/17/2021	No	Information Technology, Public Works	"Incentive Corner" webpage is live on the City's website. Banner posted on 3/28/2022.
26	Designate the California Oak Tree as the City's official heritage tree	Montano	2/1/2022		Recreation	Council approved at the 6/7/2022 meeting.
27	Discuss a "safety first" or other event in lieu of National Night Out (per CAC)	Phan	10/20/2020	Yes	Building & Housing, Police	Remove from the list per CM Phan's request on 2/02/2021 council meeting
28	Discuss budget reductions in next FY with input from residents, employees	Nuñez	10/6/2020	N/A	Finance, CMO	On 10/20/2020, to 11/10, 11/17
29	Discuss having 4th of July parade	Nuñez	2/18/2020	N/A	Recreation	No longer under discussion

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Group 4 – items that have been completed, deferred, or withdrawn						
30	Discuss potential litigation - re: govts' action on Jamboree-Project Homekey	Tran	10/6/2020	N/A	Building & Housing, CMO, CAO	Multiple Closed Sessions - Oct. 2020
31	Discussion in the next fiscal year, to have a sliding scale permitting program for seniors and low-income residence for necessary safety renovations	Tran	5/4/2021		Building Safety & Housing, Planning	8/09/2021 Council voted 5-0 to move this item forward and modify the existing Milpitas Assistance Program to include seniors; MAP continues to be available for low income seniors and sufficient funding was budgeted for FY 2022-23.
32	Discussion of campaign finance reform and/or Open Government Ordinance	Phan	6/30/2020	N/A	City Clerk, CAO	Withdrawn @ 8/4/2020 CC meeting
33	Discussion of Minute Man as City's image, when City branding comes back	Phan	8/18/2020	N/A	CMO	Staff and consultant presented the item on 5/4/2021, due to the late hour it was deferred to a future meeting. Council provided input that the Minute Man discussion will not be pursued further.
34	Discussion on possible tax measures	Tran, Phan	4/21/2020	N/A	Finance	Done on 5/15/2020
35	Discussion to reduce the City's Senior Center facilities deposit	Montano	5/4/2021		Recreation, Finance	8/09/2021 Council voted 5-0 to refer this item as part of the development of the FY 2022-23 Master Fee Schedule; Council approved the item on 4/19 as part of the adoption of the Master Fee Schedule
36	Discussion/staff report on Beautify Milpitas, graffiti abatement, resources	Montano	6/30/2020	Yes	CMO, PW	City Council approved the Beautify Milpitas program on June 1, 2021
37	Donate old, obsolete, noncompliance items from the Fire Department to Sister City Dagupan Philippines	Chua	8/9/2021	Yes	Fire, CAO, Finance	Council approved the resolution for donations of personal protective equipment on March 1, 2022 and staff implemented the program by the end of March.
38	Economic Development Corporation (EDC)	Montano	12/15/2020, 01/05/2021, 01/19/2021, 01/26/2021	Yes	CMO, Econ. Dev.	Deferred on 4/20/2021
39	Emergency item for next agenda: extend tenant eviction protections	Dominguez	6/16/2020	N/A	Building & Housing, CAO	Withdrawn, covered by other govt
40	Emergency request to cap rents on small businesses (tenants) in Milpitas	Dominguez	10/6/2020	N/A	Econ. Dev., CAO	On 12/01/20. Not supported
41	Establish "ADU Mondays"	Chua	1/5/2021	No	Building & Housing, Planning	Launched in March 2021
42	Establish a Day Worker Program	Montano	6/16/2020	Yes	CMO	Mayor & Vice Mayor to brainstorm in future; Council voted to remove this item from the list on 2/02/2021 per VM Montano's request
43	Establish Milpitas coronavirus testing site	Phan	4/7/2020	N/A	FCMO, Fire, CAO	Completed
44	Expedite process for Measure F Oversight Committee	Chua	12/15/2020	N/A	Finance	Staff explained planned process, appts. were approved by Council in March 2021
45	Explore a lease for the vacant land adjacent to the Library for City use	Tran	1/18/2022		City Manager, Economic Development, City Attorney	February 2023 update: At the January 31, 2023 City Council Budget Study Session staff was directed to drop this item from the priority list. Prior Updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting.
46	Explore increasing the Conferences/Meetings/Memberships allowance for each Councilmember to \$10,000	Chua	5/17/2022		City Manager	On 6/07/22, City Council did not approve increasing the allowance as part of the adoption of the FY 2022-23 Budget; however, Council provided direction to review funding need as part of the FY 2022-23 mid-year budget review.
47	Extend the outdoor dining options through March of next year	Phan	9/21/2021	No	Planning	Planning Director to provide information on current outdoor dining extension
48	Fee waiver for the Chamber of Commerce for either the Oktoberfest or Arts and wine Festival	Montano	3/1/2022	Yes	Recreation	Staff reached out to the Chamber of Commerce. The Chamber may seek a fee waiver next fiscal year.
49	Fee waiver for the Christian Worship Center's Easter Egg Hunt event	Tran	3/1/2022		Recreation	The City Council approved a fee waiver for this event on April 5, 2022.
50	Fee waiver for the Filipino American South Bay Community to hold pop-up resource fair at a City Park	Dominguez	3/1/2022		Recreation	Staff engaged organizers of the event; event was held on June 19; organizers did not request a fee waiver.
51	Fee waiver for the Kiwanis Annual Crab Feed event	Tran	3/1/2022		Recreation	Approved at the 3/15/2022 Council Meeting
52	Form "Beautify Milpitas" subcommittee - for a future Task Force or Commission	Chua	12/15/2020	Yes	CMO, PW	Council approved the Beautify Milpitas program on June 1, 2021. No subcommittee to be formed.
53	Form a Historical Commission	Montano	6/2/2020	N/A	Recreation, CMO	Already part of PRCRC. Commission discussed on 01-05- 2021, no change
54	Form a Homelessness Task Force	Tran	12/15/2020	N/A	CMO	Approved by Council on 1/5/21
55	Guide small businesses on ADA (Americans with Disabilities Act) requirements due to the quick changes made to facilities during the pandemic	Chua	8/5/2021	No	Economic Development	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.
56	Host a Townhall at City Hall in January, February, and March for the community to share comments about the issue of the unhoused	Tran	11/2/2021	Yes	CMO, CAO, Police, Public Works	Deferred by Mayor Tran because of public health status
57	Illegal dumping	Phan	10/5/2021	Yes	Public Works	Info Memo sent to Council on 2/25/2022
58	Incorporate a Press Release Policy (if there is an existing policy) in the City Council Handbook	Tran	8/17/2021	Yes	CMO, CAO	The City Council Handbook was adopted at the Jan. 11, 2022 City Council meeting.

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59	Increase number of commission members from seven to nine on the Parks, Recreation and Cultural Resources Commission	Montano	10/5/2021	Yes	CMO, Recreation, City Clerk	Council approved Bylaw changes at the April 19 Council meeting
60	Increase the City's rebate program to match Valley Water's two dollars rebate increase and look into expanding the "Lawn Buster" program to more residents based on income	Chua	6/15/2021	Yes	Public Works	On October 19, 2021, the Council approved a contract amendment with the Santa Clara Valley Water District (District) to match the District's rebate amount and to authorize the City to manage the "Lawn Buster" program with "Our City Forest" on behalf of the District. On December 14, 2021, Council approved a contract with "Our City Forest."
61	Increase the number of local businesses doing business with the City	Chua	4/6/2021	Yes	CMO, Economic Development, Finance	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.
62	Info. on new SB 50 (housing, transit bill)	Phan	1/7/2020	N/A	Building & Housing	Sent memo to City Council
63	Job fair with 20 local businesses to be held soon and an additional one in the fall with the Chamber taking a larger role and the City providing some support	Chua	6/1/2021	Yes	Economic Development	
64	Letter from City Council opposing AB 2181 (Berman) regarding VTA's Board Composition	Tran	6/7/2022		City Manager	Per the email sent to Council on 6/17/2022, consistent with the Council approved Legislative Advocacy Policy, Mayor Tran signed a letter opposing the legislation unless amended.
65	List of city charges/costs that could be waived for small businesses	Dominguez	6/16/2020	N/A	Finance, Econ. Dev.	6/30/2020 info memo
66	Local Boy Scouts Fee Waiver for Eagle Scout Ceremony	Tran	6/7/2022		Recreation	Fee waiver was approved on September 20, 2022.
67	Look into allowing outdoor music and would like the ordinance brought back to Council.	Montano	8/5/2021		Planning	Second reading of draft Zoning Ordinance Text Amendment scheduled for 08/16/2022
68	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	8/5/2021		Economic Development	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.
69	Look into reducing rates for the seniors and low-income families for Sports Center activities	Montano	2/1/2022	Yes	Recreation, Finance	The FY2021-22 Adopted Fee Schedule includes discounted membership and fitness passes for Seniors; low-income families can apply for membership and fitness pass discounts through the Milpitas Assistance Program
70	Maintain Dagupan, P.I. as a Sister City	Tran, Montano	9/17/2019	N/A	CMO	Approved the renewed MOU continuing the Sister City relationship on 12/17/2019
71	Mayor shall recommend a Milpitas resident to serve on VTA Bike Committee	Dominguez	11/17/2020	N/A	Engineering	12/15/20: resident Kristal Caidoy appointed to VTA BPAC
72	Memorialize those that have passed due to COVID-19 in Milpitas	Dominguez	3/2/2021	Yes	CMO, Recreation	At 8/9/2021, Council provided input that COVID-19 had not yet passed and that the discussion about a memorial should be had at a future time.
73	Mini-libraries in the low-income areas of the City	Montano	4/20/2021	Yes	Planning	Discussed on 8/9/2021, 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.
74	No on possible ban on vaping, yes on restricting smoking in multi-unit bldgs	Montano	1/7/2020	Yes	Planning, Recreation, CAO	Ordinance for multi-unit buildings adopted on 6/15/2021
75	Opportunity to share ideas for US census & on City "sponsored" events	Dominguez	9/1/2020	N/A	CMO	12/01: remove census topic, move events to CC retreat 2021; at 1/12 retreat Council direction to cease
76	Ordinance to ban vaping in the City	Montano	12/15/2020		Planning	Study session with Council held 6/21/2022. Tobacco Retail Permitting program, including ban on vaping products and flavored tobacco, will be brought forward in Spring 2023
77	Outreach to notify the community of the trash voucher program	Chua	9/7/2021	No	Public Works	Staff provided an Information Memorandum regarding the pilot program on April 6, 2022.
78	Parade for MHS Trojans Football	Tran, City Manager	1/21/2020	N/A	Council	Completed 1/28/2020
79	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	8/17/2021		Recreation	Staff will include the stem cell donor information in regularly scheduled wellness event
80	Performance Evaluation (Contract) of City Attorney	Tran	1/5/2021	N/A	Council, CAO	Multiple Council closed session discussions held. Council voted to move to a full time in-house City Attorney on 6/21, additional direction on next steps to be provided to staff in August.
81	PG&E power outage plan presentation to Council	Tran	1/19/2021	No	CMO	Presented to Council on 3/16/2021
82	Plan to put utility fines into a fund to help small businesses in the City	Montano	12/15/2020	N/A	Finance	Directed staff on 2/02/2021 to approve policy recommendations temporarily suspending penalties for delinquent fire permit fees, and delay or waive business lic. tax collections but no direction to create a separate fund. On 2/16/2021 Council approved waiving business license penalty between Jan 1 - May 31, 2021. Also, the utility late fee and water shut off have been suspended consistent with State Emergency Order (through Sept 31, 2021). Also, Council allocated ARPA funds to assist small businesses.
83	Policy for Proclamations and Commendations	Núñez, Phan	8/20/2019	N/A	CMO	Withdrawn 6/2/2020

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84	Policy for Social Media	Núñez, Phan	8/20/2019	N/A	CMO, CAO	Withdrawn 6/2/2020; policy already approved by Council
85	Pollination protection	Dominguez	1/5/2021	Yes	CMO	Deferred on 2/02/2021; did not receive a majority vote on 2/02/2021 council meeting
86	Postponement (not waiver) of penalties related to City business fees	Tran	1/5/2021	N/A	Finance	On 2/16/2021 Council approved waiving penalties until May 31. The suspension of penalties is now no longer in effect.
87	Prepare a report on ghost guns; engage in legislative advocacy regarding ghost guns; and incentivize ghost gun buybacks at the May buyback event.	Dominguez Tran	4/5/2022		Police	An Information Memorandum was distributed on August 12, 2022.
88	Prepare Vision Zero Action Plan	Tran	6/7/2022		Engineering, Police	February 2023 update: At the January 31, 2023 City Council budget hearing, the City Council supported staff's recommendation to drop this item from the priority list due to the expense of the study as well as the fact that many traffic safety initiatives and projects are already underway in the City of Milpitas.
89	Proclaim Saturday, March 19, 2022 as Chez the Ice Cream Man Appreciation Day	Tran	3/1/2022	No	City Clerk	Proclaimed at the 3/15/2022 Council Meeting
90	Proclamation and support for face coverings	Montano	4/7/2020	N/A	CMO, CAO	4/21/2020. CC directed City Manager to issue regs
91	Propose building height limits in area east of Milpitas Blvd.	Tran	12/15/2020	Yes	Planning	Deferred for one year from 2/02/2021 Council meeting
92	Provide Commissioners appreciation gifts	Chua	10/19/2021	Yes	CMO, Finance	Staff placed the order of fleece jackets the week of March 14th. Depending on the stock, the appreciation gifts will be distributed during the first two weeks in April 2022.
93	Read "Code of Conduct" aloud prior to each City Council meeting	Montano	6/2/2020	N/A	CAO	Approved 8/18/2020. City Attorney began this practice 9/01/20
94	Reduce the City's Senior Center facilities deposit for the Auditorium/Community Room	Montano	5/4/2021	Yes	Recreation, Finance	Council approved the reduction of the facilities deposit as part of the adoption of the FY 2022-23 Master Fee Schedule Resolution. Will be brought forward on 4/19 as part of Master Fee Schedule discussion.
95	Reduce the park rental fees for the Samuel Ayer High School reunion	Montano	2/1/2022	No	Recreation	Approved at 3/15/2022 Council meeting. Info Memo on City Council Policy on Fee Waivers & Reductions was sent out on 3/8/2022
96	Rename Augustine Park to include "Sunnyhills"	Tran, Montano	9/17/2019	N/A	Recreation	Approved on 2/4/2020
97	Rename portion of Dixon Landing Rd., as Barack Obama Boulevard	Núñez, Phan	8/20/2019	N/A	Planning, CMO	Deferred indefinitely
98	Report from staff on 2nd federal stimulus package - action plan on funds	Chua	12/15/2020	N/A	CMO, Finance	Info Memo sent to Council on 12/23/2020
99	Report on parking in The Pines	Núñez	1/7/2020	N/A	Engineering	2/18/2020
100	Report on speed cameras like Fremont (radar displays) - no enforcement	Phan	1/7/2020	N/A	Police	1/28/2020, 3/24/2020, 4/14/2020
101	Request for Dumpster Days	Tran	1/7/2020	N/A	PW	Program initiated in Spring 2021
102	Requested a meeting for the subcommittee for the Old Town Main Street be scheduled next month	Montano	1/18/2022	No	CMO	The Subcommittee meeting was held on April 12 at 4:30pm.
103	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	10/19/2021		Planning	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
104	Requested discussion and for 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	11/16/2021 1/18/2022	Yes	CMO, Recreation, Engineering, Public Works	City Council approved the pilot on 3/15/2022
105	Requested staff work with the Vice Mayor and Mayor to explore and discuss building height limits near the hillside by January 2022	Tran	9/21/2021		Planning	Second reading of draft Zoning Ordinance scheduled for 08/16/2022
106	Requested that staff study the placement of a City sign for the Milpitas Police Department and explore the cost of a new sign	Dominguez	1/18/2022		Public Works, Police	February 2023 update: Lighted signage for the Police Department and Public Works and IT was installed and completed the week of January 24th 2023. Landscaping was completed in the Summer of 2022. This item is completed. Prior update: Staff has been working on upgrading signage and landscaping around the Police Department and Public Works Building. Lit-up signs mounted on the building are scheduled to be installed by the end of August.
107	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	4/20/2021		Planning	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.
108	Requested the City Attorney's office explore encampment ordinances from the City of Oakland, Los Angeles, or other regional cities and would like a discussion on the existing policies to be brought back before the July recess.	Tran	2/15/2022		City Attorney	4/19/2022 direct the City Attorney to make the recommended changes to the Municipal Code to remove and prohibit property in public; the City Attorney will bring forward an ordinance in September 2022.
109	Requested the City create a youth scholarship fund for under privileged kids to play sports	Montano	5/17/2022		Recreation	As part of the adoption of the FY 2022-23 Budget, the City Council allocated \$20,000 for this program. Staff will bring forward a policy framework for this program for Council approval in September 2022.
110	Requested the City extend the outdoor dining options through March of next year	Phan	9/21/2021		Planning	Emergency Outdoor Dining program extended. Draft zoning ordinance with standards for permanent outdoor dining prepared and now under review. Planning expects bring forward draft ordinance for PC and Council consideration before the end of 2022.

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						This item has been completed. The training was held on January 7, 2022 (for City Council) and various dates for staff. Training information was also sent to all Commissioners.
111	Require implicit bias training for City Council, Commissioners & staff	Dominguez	6/16/2020	N/A	Human Resources	
112	Resolution in support of elimination of discrimination v. women	Dominguez	1/7/2020	N/A	CMO, CAO	5/19/2020 Reso. Adopted 8/04/2020 Ord. adopted
113	Resolution on financial status of the City, steps to be taken	Núñez	8/18/2020	N/A	Finance	Resolution adopted 9/01/2020
114	Responsible Construction Ordinance	Phan	2/4/2020	N/A	CAO, Building & Housing	Ordinance adopted on 02/02/2021
						Presented to Transportation Subcommittee on 02/12/2021; voted on 3/16/2021 to revisit this item; on April 8, 2022 the Transportation Subcommittee provided input on a draft policy, which is scheduled to be reviewed by the Subcommittee at its September 2022 meeting.
115	Review City policy on speed bumps	Tran	12/15/2020		Engineering	
116	Revise Community Garden Strategy	Dominguez	1/5/2021	Yes	Recreation	Deferred on 2/02/2021; did not receive a majority vote on 2/02/2021
117	Revisit CC Housing Subcommittee, consider dismantling ; bring items to Council	Dominguez	11/10/2020	N/A	Building & Housing, CMO	12/01/20: Did not vote to eliminate Subcommittee
118	Revisit contract provisions of executive staff (CM + CA) best working environment	Phan	11/10/2020	N/A	Council, CMO, CAO	Discussed @ Closed Session 11/17/2020
119	Schedule and host a "Milpitas Business Expo" in late 2021	Chua	12/15/2020	Yes	Econ. Dev.	Did not receive a majority vote from 2/02/2021 council meeting
	Science, Technology, and Innovation Commission agendaize and explore a comprehensive internet connectivity plan.	Tran	5/3/2022		Information Technology	Item was discussed at June STI Commission meeting
120						
121	Staff provide and explain the Project Homekey Management Manual, see if the MOU is being followed including forming an oversight committee, and explore with County to have check-ins of the units. Dominguez indicated it could be included in Council Member Chua's recommendation. Mayor requested to include County in discussion.	Dominguez	6/7/2022		Housing	Item will be agendaized for August 16 City Council meeting
122	Staff to look into creating "Welcome to Milpitas" signs in key areas of in the City	Montano	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. This project will be added to unfunded project list of the 2023-2027 CIP to allow time for staff to research potential grant funding and outreach to local business and service clubs.
123	Staff to look into creating a rose garden with a children's memorial site	Montano	4/6/2021		Engineering, Recreation	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; The funding for this project will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022. Discussed at the May 3 meeting funding was reallocated to the Softball Field project
124	Staff to provide information to place a measure on the ballot to change the directly elected Mayor to a rotational at-large position	Tran	3/16/2021		City Attorney	To be brought forward in Spring of 2022, once new City Attorney is in place; scheduled for 3/15/2022; rescheduled for 4/05/2022; discussed at the May 10 budget meeting and had a consensus that they did not want to move forward with a Mayoral ballot measure
125	Street/traffic calming update	Núñez	1/7/2020	N/A	Engineering	Completed 3/3/2020
126	Support community distribution of masks	Dominguez	4/7/2020	N/A	CMO, Fire, Recreation	Councilmembers supported at the 4/21/2020 Special Council meeting
127	Support for Laura's Law	Phan	2/4/2020	N/A	CMO, CAO	Supported @ 5/19/2020 council meeting
128	Update "My Milpitas" App for COVID- 19 information	Phan	1/5/2021	N/A	PW, IT	Updated App to provide links
129	Update on planning grant for ADU marketing.	Chua	1/5/2021	No	Planning	Presented to Council on 4/06/2021
130	Update on trash problems in homeless camps	Chua	1/19/2021	No	PW	Info Memo sent 1/24/2021
131	Vaccine distribution plan - add testing locations and expedite mass vaccine distribution	Phan	1/19/2021	Yes	CMO, Fire	COVID-19 mobile testing transition to vaccine distribution info memo was sent on 1/22/2021; SCC and MFD launched mobile vaccination on 4/5/2021, in-home vaccination program started on 4/15/2021
132	Vote on County 2020-2025 Plan to end Homelessness	Dominguez	11/17/2020	N/A	CAO, CMO	12/1/20 adopted Resolution in support
133	Work with the school district to have a contest to create art murals for the pillars on Main Street	Montano	9/7/2021		Recreation	Approved to move forward at the 1/11/2022 Council meeting; funding allocated to Great Mall Pkwy. VTA pillar murals