



DATE: March 17, 2020

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **New Residential Development at 355-365, 401, and 415 East Middlefield Road**

RECOMMENDATION

1. Approve an Initial Study of Environmental Significance for the 355-365, 401, and 415 East Middlefield Road Residential Project, pursuant to Section 15168 of the California Environmental Quality Act (Attachment 1 to the Council report).
2. Adopt a Resolution Conditionally Approving a Planned Community Permit and Development Review Permit for a Residential Bonus FAR to Construct Two 7-Story Multi-Family Residential Buildings with 427 Units (157 Condominiums and 270 Apartments) with Three Levels of Structured Parking and 36 Four-Story Townhomes with Attached Garages, for a Total of 463 Residential Units, and a Transfer of Development Rights of 10,000 Square Feet from 2535 California Street, 506 Showers Drive, and 350 Showers Drive to 355 East Middlefield Road in Relation to the Los Altos School District TDR Program, and a Heritage Tree Removal Permit to Remove 18 Heritage Trees, to be read in title only, further reading waived (Attachment 2 to the Council report).
3. Adopt a Resolution Conditionally Approving a Vesting Tentative Map to Create Five Residential Lots, Three Common Lots, and Dedication of a New 0.38-Acre Public Park on a 6.0-Acre Project Site Located at 355-365, 401, and 415 East Middlefield Road, to be read in title only, further reading waived (Attachment 3 to the Council report).
4. Adopt a Resolution Ordering the Vacation of Public Easements on 355-365, 401, and 415 East Middlefield Road, to be read in title only, further reading waived (Attachment 4 to the Council report).

BACKGROUND

Project Site



Figure 1: Location Map

The project site includes two parcels totaling approximately 6.0 acres, and is located on the south side of East Middlefield Road, between North Whisman Road and Ellis Street. The site is currently developed with 84,905 square feet of office and research and development buildings, which were built in the 1960s.

The site is surrounded by light industrial and research and development (R&D) uses to the west, office uses to the north and east, and a residence and agricultural use to the south. The Middlefield VTA Light Rail Station is located approximately 1,000' (0.2 mile) to the northeast of the project site, and Vargas Elementary School and the Google day care are located approximately 700' southwest of the project site along North Whisman Road.

Previous Meetings and Hearings

City Council Gatekeeper Authorization

On [January 16, 2018](#), the City Council authorized a framework for the Los Altos School District's (LASD) Transfer of Development Rights (TDR) program and Gatekeeper requests for development projects proposing to utilize the available TDR square footage (see Attachment 5). In total, the TDR program facilitates the sale of up to 610,000 square feet from the newly acquired LASD school property at 2535 California Street, 506 Showers Drive, and 305 Showers Drive in the San Antonio Precise Plan area to help fund acquisition of the site for a new neighborhood-serving school.

This project is one of the six initial LASD Gatekeeper requests authorized by Council to include 10,000 square feet of the TDR for a 250-unit residential development and allowed the applicant to begin the development review process prior to the final adoption of the East Whisman Precise Plan (EWPP). On [April 17, 2018](#), Council considered modifications to the applicant's original Gatekeeper request (see Attachment 6).

The revised request included changes to the project scope and proposed deviations from the draft EWPP and other City requirements, which the applicant stated were necessary for the project's financial viability and included:

- An increase in the total number of units, from 250 units to 447 units;
- Incorporating a mix of rental and ownership units, instead of ownership units exclusively;
- An increase in the number of building stories, from five stories up to seven stories;
- An increase in floor area ratio (FAR), from 2.26 to 2.87; and
- An alternative below-market-rate (BMR) compliance plan, providing 10 percent below-market-rate rental units on-site and payment of the in-lieu fee for the ownership units instead of providing units on-site per the City's updated BMR requirements.

The City Council reauthorized the Gatekeeper request with the applicant's proposed modifications, except for the alternative below-market-rate compliance plan. The City Council requested a separate Study Session be scheduled to discuss alternative compliance plan options for the project.

City Council Study Session

On [October 16, 2018](#), the City Council held a Study Session and provided direction on the project's affordable housing obligation based on the characteristics of the proposed project, the City's BMR requirements, and various options for comparable mixes of low- and moderate-income units (see Attachment 7).

The majority of Council supported an alternative BMR compliance plan for the project to include 10 percent of the units at rents affordable to low-income households and 15 percent of the units at moderate-income levels in the rental portion of the project in lieu of providing any affordable ownership units or paying an in-lieu fee (identified as Alternative 4 in the Staff Report). Council supported this alternative because it provided the greatest number of affordable units on-site and included moderate-income units to address the needs of "missing-middle" households.

Environmental Planning Commission Study Session

The EPC reviewed the proposed project at a [June 19, 2019](#) Study Session and provided the following feedback (see Attachment 8):

- Supported flexibility in applying the service street dimensional requirements and associated building-to-building distance separation for the project;
- Supported project revisions to achieve a continuous paseo along the southerly edge of the site, which avoided pedestrians crossing the internal service street twice to traverse the site;
- Expressed general support for exceptions to the Precise Plan-required common open area requirements but directed the applicant to work with staff to improve the proposal's compliance with the EWPP; and
- Expressed general support for the overall design of the project, but directed the applicant to continue to work on the project design, particularly the key corner, variation between project buildings, and overall massing/articulation ("boxiness of buildings"). Numerous Commissioners also discussed the need for a greater variety in building forms, window design, and detailing.

Development Review Committee

The project was reviewed by the Development Review Committee (DRC) in July, October, and November 2019. The DRC provided design recommendations related to architecture, massing, transitions, and pedestrian-level improvements, and addressed feedback provided by the EPC. The DRC recommended approval of the project providing direction for the applicant to continue to work with staff to: enhance the paving design for the paseos; provide high-contrast pedestrian crossings of the service street; refine screening designs for gas meter banks and the garage podium to achieve a high-quality appearance along pedestrian pathways; refine the color, materiality, and profile of the angled “key corner” building feature and seating/landscaping configuration in the “key corner” plaza to achieve a warm and distinctive appearance; adjust recesses and projections on the large apartment and condominium buildings to improve massing; make the design of ground-level porch/patio detailing more interesting, particularly on the condominium building; and continue to refine the color/material palettes to have adequate complementary variation. The recommendations of the DRC have been provided as conditions of approval. The applicant has begun to address DRC recommendations in the current plans and will continue to work with staff through the building permit process if the project is approved.

Neighborhood Meetings

The applicant hosted a neighborhood meeting on November 13, 2019. No neighbors or interested parties attended the meeting. The applicants also met with two adjacent property owners and the Wagon Wheel Neighborhood Association, where they presented their plans and answered questions about the project in September 2019. Issues brought up at this meeting included how much parking the project would provide, anticipated impacts to traffic, bicycle safety along East Middlefield Road, and the construction schedule.

Environmental Planning Commission Public Hearing

The EPC held a public hearing to review the project on [February 19, 2020](#) (see Attachment 9). The project applicant and one member of the public spoke in support of the project.

Overall, the EPC supported improvements to the project design, including providing a connected multi-use path along the southerly edge of the site, differentiation of the three types of housing products, providing ownership housing opportunities, and improvements to the architectural treatment of the “key corner.” The EPC also

discussed concerns with the lower parking ratio, but acknowledged the proximity to transit and the goals of the Precise Plan support lower parking standards. The EPC also recommended staff work with the applicant on addressing some landscape modifications to allow for recycled-water-friendly trees, as well as consider a wider sidewalk along the loading zone, if feasible.

The EPC unanimously recommended the City Council approve the project, associated map, and Initial Study, with modifications to a condition of approval regarding airport noise disclosure, clarifying the parking ratio per housing type, and utilizing a consistent metric (per unit).

ANALYSIS

Project Overview

The applicant, SummerHill Homes, proposes to construct a 463-unit residential project, consisting of a mix of townhomes and stacked condominiums and apartments, and dedicate a 0.376-acre public park (see Attachment 10 – Project Plans).

The applicant is requesting a Residential Bonus FAR up to 2.91, exceeding the allowed base FAR of 1.0, with a density of 77 dwelling units per acre.

The project will provide vehicular access from Middlefield Road with a new U-shaped service street serving as primary access to the seven-story apartment building on the east, the seven-story condominium building in the middle of the site, and two alleys, which serve the townhomes, on the west side of the site. Along Middlefield Road is the approximate 0.38-acre future public park and eight guest parking spaces available for park visitors. This location facilitates potential park expansion if/when redevelopment occurs on the adjacent parcel(s) and is aligned with a future north-south roadway/intersection planned under the EWPP. An additional five surface parking spaces are located between the condominium and apartment building and provide EWPP-required ride-share spaces.

A multi-use path and a paseo are proposed along the perimeter of the site, including an east-west connection along the southern edge of the site, and a north-south connection along the easterly edge of the site, respectively. The paseo along the easterly side of the site is designed to function like a sidewalk (on which bicycles could go pedestrian speed), whereas the multi-use path along the southerly site boundary is designed to accommodate full-speed bicycle travel.

The condominium and apartment buildings are located 15' to 19' from the front property line, consistent with the minimum 10' setback per the EWPP, and include a new public sidewalk along Middlefield Road. This front setback area includes passive open space, pedestrian access to ground-floor building areas, and entry plazas for both buildings.



Figure 2: Site Plan

The project provides a mix of housing types, building heights, and amenities as follows:

Townhomes: The 36 four-story townhomes (referred to as 12-plex flats on the project plans) are located in three buildings on the southwesterly corner of the project site. Each two- or three-bedroom unit is served with a private, tandem two-car garage on the first floor. Four of the 12 units in each building have front-door entries from a porch, while the other units have a shared lobby entrance. All units have a private balcony. Overall, the townhomes have a transitional contemporary architectural style with stucco and vertical siding, gable/shed roof forms, stone veneer, and metal accents, providing a mix of contemporary and traditional element.

Condominiums: The seven-story condominium building is located in the center of the project site with 157 units and three levels of podium parking (one below-grade and two levels above-grade). The condominium building includes a central podium

courtyard located on the third floor with a pool, spa, and outdoor amenities along with a common club room. There are three roof decks proposed on the sixth and seventh levels. A fitness center and bike room are located at-grade with personal storage units located in the basement garage level. There are a total of 208 parking spaces (30 of which are tandem) to serve the building and 19 guest parking spaces. The condominium building employs a contemporary design with stucco, brick veneer and metal siding, porcelain tile accenting the building base, and metal accent details throughout.

Apartments: The seven-story apartment building is located on the eastern edge of the project site and includes 270 units and three levels of podium parking (one below-grade and two levels above-grade). The building has two podium outdoor courtyards accessed from the third floor with a pool, spa, common club room, and other outdoor amenities. The 90' tall building has a fitness center and common room on the main floor and three roof decks on the seventh floor. There are 295 parking spaces, 15 of which are guest parking spaces. The apartment building also employs a contemporary design with stucco, high-pressure laminate panels and metal siding, brick veneer accenting the building base, and metal accent details throughout.



Figure 3: View of the Public Park Along East Middlefield Road

Public Park: The approximate 0.38-acre public park is proposed along Middlefield Road, highlighting a key entrance into the project site as shown in Figure 3. The park scale and location align with desired open space identified in the EWPP, discussed in greater detail later in this report.

General Plan

The project site has a General Plan Land Use Designation of East Whisman Mixed-Use, which promotes a mix of office, neighborhood-serving commercial, multi-family residential, lodging, and small businesses in the core of the Precise Plan area. The project is consistent with the General Plan land use as it introduces a multi-family residential use into the East Whisman area near transit and employment. Additionally, the project advances the following General Plan policies:

- *LUD 3.1: Land Use and Transportation.* Focus higher land use intensities and densities within one-half mile of public transit service and along major commute corridors by locating a residential land use within 0.2 mile of a VTA Light Rail Station;
- *LUD 8.3: Enhanced Publicly Accessible Bicycle and Pedestrian Connections.* Encourage new and existing developments to enhance publicly accessible bicycle, pedestrian, and transit connections. The proposed development includes new pedestrian and paseo connections throughout the site, incorporates bike facilities on-site, and aligns the service street in a manner that can accommodate a potential midblock crossing in the future on Middlefield Road with implementation of Street A (identified in the mobility section of the EWPP); and
- *LUD 8.4: Pedestrian-Oriented Civic and Public Spaces.* Create and encourage new pedestrian-oriented civic and public spaces throughout the City by providing dedication of land for a future public park.

East Whisman Precise Plan

On November 5, 2019, the City Council adopted the East Whisman Precise Plan, resulting in the project site being zoned P(41), East Whisman Precise Plan. The EWPP is structured around 10 interrelated policy strategies to implement the vision for the area, summarized on Page 29 of the EWPP (see Attachment 11 – East Whisman Precise Plan). The project is in conformance with all 10 strategies, except as summarized below.

Character Area

This project is located in the EWPP's Mixed-Use Character Area. The westerly one-third of the site is in the Medium-Intensity subarea and the remaining portion is in the High-Intensity subarea. The applicant is requesting the following exceptions:

- Setbacks. For residential development within the Medium and High-Intensity subareas, a minimum side and rear setback of 15' is required. The applicant is requesting to have a 14' side setback from the western property line to the townhomes. This is to accommodate articulation in the building facade with balconies and building projections, which staff supports to maintain architectural interest.
- Building Separation. Per the EWPP, a minimum building-to building separation of 65' is required to accommodate a service street that can serve vehicle circulation, pedestrian sidewalks, and fire access on a project site (a graphic is shown on Page 156 of Attachment 6). The applicant is requesting an exception to this minimum separation between the seven-story condominium building and the four-story townhomes to be 53'. Due to the decreased height of the townhomes, the narrower building separation will not result in a tight building corridor, which the requirement is intending to avoid.

Height and Floor Area Ratios

Overall, the Mixed-Use Character area is intended to transition from the highest intensity and height around the light rail station to the least intensity towards North Whisman Road. The project reflects this transition with taller 7-story buildings on the east side and shorter 4-story buildings on the west side. The applicant is requesting the following exception:

- Wall Plate Height. The EWPP requires the ground-floor height of a residential building to be a minimum of 12' above the sidewalk to support a prominent ground-floor presence for the pedestrian experience. Though the apartment and condominium buildings comply with this standard, the townhome flats do not. Because the townhomes are far from the project's primary frontage (behind the park) and the building architecture delineates a two-story building base, staff feels the project will continue to meet the intent of the standard.

The project is requesting Bonus FAR within the maximum allowed by the EWPP, excluding the 10,000 square feet of TDR. In requesting Bonus FAR, the applicant is

required to provide additional benefits to the project beyond those required for a baseline project, which will be discussed later in this report.

Jobs-Housing Linkage

A key element in the Precise Plan is the job-housing linkage, which is intended to create opportunities for people to live near work, services, and retail by increasing housing supply and reducing regional vehicle trips generated by office development in the City. If approved, this project will be the first residential development in East Whisman and the 463 residential units would support the strategy for balanced growth. Based on Council’s prior direction, the net new office square footage that balances with this housing project would be available for use by the other authorized LASD TDR office developments—if this project is approved. There is an office development currently under review in East Whisman at 465 Fairchild Drive, which may choose to utilize a portion of this square footage. Separately, the existing 84,905 square feet of office/R&D on the project site is proposed to be demolished. This square footage is available to the applicant to transfer to another development of their choosing. The applicant has up to five years after start of construction to complete a transfer of this square footage, or it will be added to the EWPP Development Reserve.

Diverse Housing

The Precise Plan includes strategies to incentivize and support the construction of affordable housing, along with a target mix of unit sizes. The project proposes unit sizes in line with the Precise Plan targets. Per prior Council direction in October 2018, SummerHill is proposing an alternative below-market-rate compliance plan that is not consistent with the City’s recently adopted BMR requirements, which requires 15 percent affordable units for all market-rate projects. Instead, the applicant is proposing to provide the following affordable units as summarized in Table 1.

Table 1: Alternative BMR Compliance Plan

RENTAL UNITS	PROPOSED BMR UNITS
270	Low-Income: 10% (27 units)
	Mod-Income: 15% (41 units)
<i>Subtotal</i>	68 BMR Units
Ownership Units	
Townhomes: 36	N/A
Condominiums: 157	N/A

Public Open Space

The EWPP conceptually identifies desired public open spaces. A mini-park (0.3 acre to 1.0 acre) is identified on the south side of Middlefield Road at the project site (see Figure 2). The project is dedicating a 0.376-acre parcel to the City for the public park, which, if approved, will be designed and developed through the City-led Capital Improvement Project (CIP) process.

Schools

The project applicant is continuing to develop a strategy to support local schools based on the Citywide School Strategy. The City Council is scheduled to discuss this topic on March 24, 2020.

Streetscapes and Frontages

The EWPP calls for walkable and active streets that provide direct access to buildings located near the sidewalk. The project proposes significant improvements to the frontage along Middlefield Road shown in Figure 4, including preservation or relocation of existing Heritage trees along this frontage. The applicant is requesting the following exception:

- Ground-Floor Level Above Sidewalk. The Precise Plan requires the ground-floor level to be no more than 4' above the sidewalk to support easy pedestrian access into a building. With the sloped nature of the project site, the applicant is requesting to allow up to 1.5' of additional height above the sidewalk to accommodate the topography of the site and allow for ground-level residential units to align with the grade. Staff supports the request as it appropriately addresses the topographic conditions.



Figure 4: View from East Middlefield Road

Multi-Modal Circulation Network

The on-site circulation network has been significantly revised from the original submittal to include a complete street and continuous bicycle and pedestrian connections (see Figure 5).

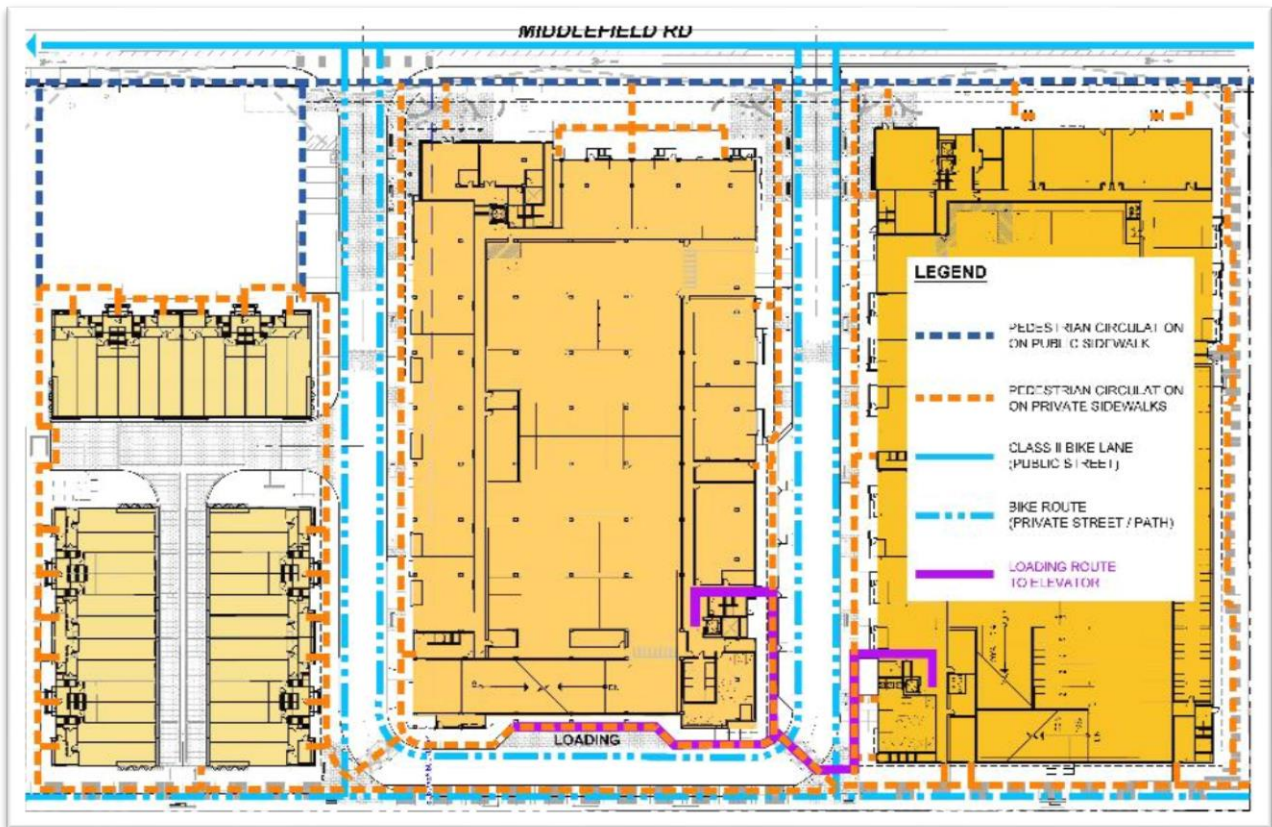


Figure 5: Site Circulation

The proposed multi-use path along the southerly site boundary will allow an east-west connection across the rear of the project site, from the VTA Light Rail trail to the commercial shopping center and public school on North Whisman Road. Figure 6 shows the proposed cross-section for the southern multi-use path. To accommodate the path, the applicant is requesting the following exceptions:

- **Sidewalk Width.** For service streets that accommodate fire access, the EWPP establishes a 5' minimum sidewalk width. While the majority of sidewalks in the project comply, the sidewalk segment along the south side of the condominium building is 4' in width (as seen in Figure 6). Staff supports the exception because it covers a limited span of on-site sidewalk, helps facilitate a better east-west paseo connection, and preserves space for vertical landscaping adjacent to the seven-story condominium building.

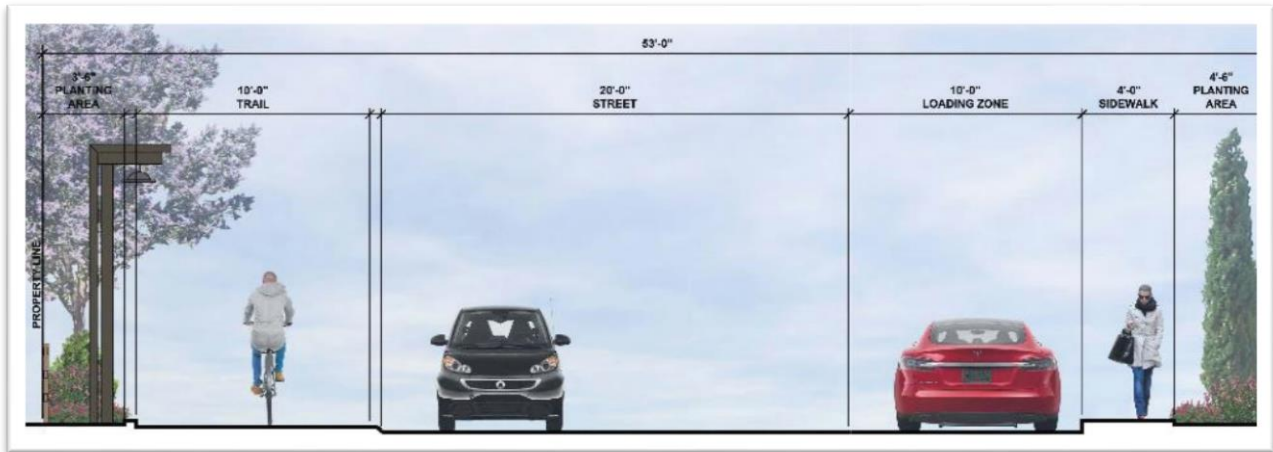


Figure 6: Cross-Section of the Southern Multi-Use Path

- Service Street Width. In tandem with the sidewalk exception, the applicant is requesting to have a service street width of 20' along the south end of the condominium building, in lieu of the required 26', in order to accommodate the 10' wide south paseo (see Figure 6). To maintain the minimum fire access and clearance, the applicant has proposed a rolled curb along the paseo so a fire truck can drive on the paseo if needed in an emergency. City staff, including the Fire Department, has reviewed the proposal and is satisfied with the solution. A continuous east-west paseo connection could not be provided without this exception unless the condominium building was made smaller, which the applicant has indicated would significantly impact project feasibility.

At the EPC hearing, it was suggested the sidewalk shown on the right side of Figure 6 above be widened to 4'-6" (in lieu of 4'), and the landscaped planting area between the sidewalk and the seven-story building be reduced to 4'. Staff reviewed the feasibility of this request and determined there is anticipated to be concrete footings to support the building within this area, as well as reduced feasibility for landscape screening of the garage. For these reasons, staff has concluded the best solution continues to be shown in Figure 6 and the project plans.

LASD Transfer of Development Program

The project is not proposing to invoke any specific exceptions to development standards identified in the Precise Plan for TDR projects. A condition of approval of the project requires the applicant to provide proof of purchase for the TDR square footage, prior to the issuance of the first building permit, and the TDR square footage will be memorialized through a legal agreement recorded on the property.

Community/Public Benefits

Community benefits are required in the East Whisman Precise Plan Bonus FAR program. The public benefit value based on the adopted East Whisman Precise Plan is \$5 per square foot of Bonus FAR, excluding the 10,000 square feet of LASD TDRs. The estimated public benefit contribution for this project's net "bonus" of 499,832 square feet is approximately \$2.5 million.

Project Design

The EWPP includes extensive quantitative and qualitative design direction for new development, for which key topics are discussed below. If the project is approved, several of these design elements will continue to be refined with City staff through building permit review.

- **Key Corner.** The EWPP identifies the northwest portion of the condominium building as a "key corner," for which the project is in compliance. The key corner appears distinctive and welcoming through relocation of a Heritage oak tree to the area, adding sculptural seating, pedestrian-scaled landscaping, an entry arcade, and special building materials and colors.
- **Differentiate Buildings and Building Massing.** At prior EPC and DRC meetings, concerns were raised about further differentiating the condominium and apartment buildings. Modifications between the two buildings, including changes in form, have occurred. If approved, staff would continue to work with the applicant on the townhome portion of the project to ensure all three buildings include a complementary, but varied, appearance.
- **Architectural Detailing, Materials, and Color Schemes.** The applicant has worked with staff to incorporate more varied design details and color schemes. Particular attention was paid to high-quality materials and detailing on the building bases, variation in window designs, color selection at primary building corners, and better differentiation of color schemes.
- **Integration into Existing Neighborhood.** The project integrates into existing and future development in the Precise Plan by providing ground-floor uses (such as common areas) which are transparent, well-lit, and inviting, with windows and entries overlooking the street, sidewalks, common areas, and public spaces. In addition, the project includes a planting plan for the southerly paseo that is intended to complement the existing agriculturally zoned property to the south.

Traffic and Parking

As part of this project, a Site-Specific Transportation Analysis (SSTA) was prepared in September 2019. The project is estimated to generate 108 net new peak-hour trips in the morning hours and 146 net new peak-hour trips in the evening hours, which includes a 9 percent reduction based on the project's proximity to light rail. In addition, the project is required to have a Residential Transportation Demand Management (TDM) program to further support reduced vehicle trips and promote alternative transportation options for all on-site residents and employees. As conditioned, the project will be required to join the TMA. The project will not result in any new impacts beyond those already identified in the Precise Plan EIR.

For parking, the EWPP applies different requirements to different residential development types. Each townhome unit is required to provide a minimum of two spaces per unit for a combined total of 72 spaces. The remainder of the project has a parking maximum based on bedroom counts. Based on the bedroom mixes, the project cannot exceed a maximum parking of 670 spaces. The project is proposing a total of 588 spaces, which includes 13 additional spaces along the service street (see Table 2).

Table 2: Project Parking Summary

DEVELOPMENT TYPE	REQUIRED PARKING	PARKING PROPOSED
Townhomes	Minimum 72 spaces	72 spaces (2 spaces/unit)
Condominium Units	Maximum 272 spaces	208 spaces (1.32 spaces/unit)
Apartment Units	Maximum 326 spaces	295 spaces (1.09 spaces/unit)
Outdoor Parking		13 spaces
<i>TOTAL</i>	Maximum 670 spaces	588 spaces (1.27 spaces/unit)

A parking analysis was prepared to evaluate whether the proposed parking would be sufficient to serve the project (included as [Exhibit 12 in Attachment 9](#)—EPC Staff Report). The analysis was based on several similar-sized projects in the Bay Area and concluded an average parking demand ratio of 0.80 space per bedroom for the condominium and apartment units, for which the project exceeds this ratio. A total of 493 parking spaces would be sufficient per the study results; a total of 516 parking spaces are proposed for the condominium and apartment buildings. Staff supports the amount of parking proposed on-site based on the distribution, results from the parking

study, and proximity to transit. Additionally, the project is proposing 463 long-term and 46 short-term bicycle parking spaces.

Trees

A total of 91 trees exist on the project site, of which 23 are designated as Heritage trees. Eighteen (18) of the Heritage trees are proposed to be removed, along with 66 non-Heritage trees. One Heritage Coast live oak tree is proposed to be relocated to the “key corner” along East Middlefield Road. All of the trees on the site have been reviewed by an arborist who concluded that many of the existing trees are nearing the end of their life cycle, have been irreversibly pruned due to utilities, or are in poor health and should be replaced. If approved, the project proposes to plant 306 new trees. The anticipated tree canopy coverage is 28 percent of the site once matured, which is an increase from the existing 17 percent coverage on the site today.

Subdivision

A Vesting Tentative Map for the project includes the creation of five residential lots: (a) a lot to accommodate 157 stacked condominiums; (b) a lot to accommodate up to 270 stacked apartment units; and (c) a lot to accommodate 36 stacked townhome units. The map also includes three common lots to accommodate circulation throughout the project and shared common areas. Lastly, the map includes a lot for a new 0.376-acre public park (see Attachment 3—Resolution for the Vesting Tentative Map). Since the EPC’s hearing on the project, staff has included additional findings in support of the Vesting Tentative Map to address findings under Government Code Section 66474.

Easement Vacation

The applicant has requested the City vacate the existing public utility easement and wire clearance easement on the two parcels to accommodate the project (see Figure 7). The easements were established in 1960 per a recorded document in Book 4675, Page 157, Santa Clara County Records. The existing overhead electric and related utilities within the easements are proposed to either be removed or placed underground as part of this project. The proposed Vesting Tentative Map would dedicate new public service easements as necessary. The project boundary and the existing easements to be vacated are shown below.

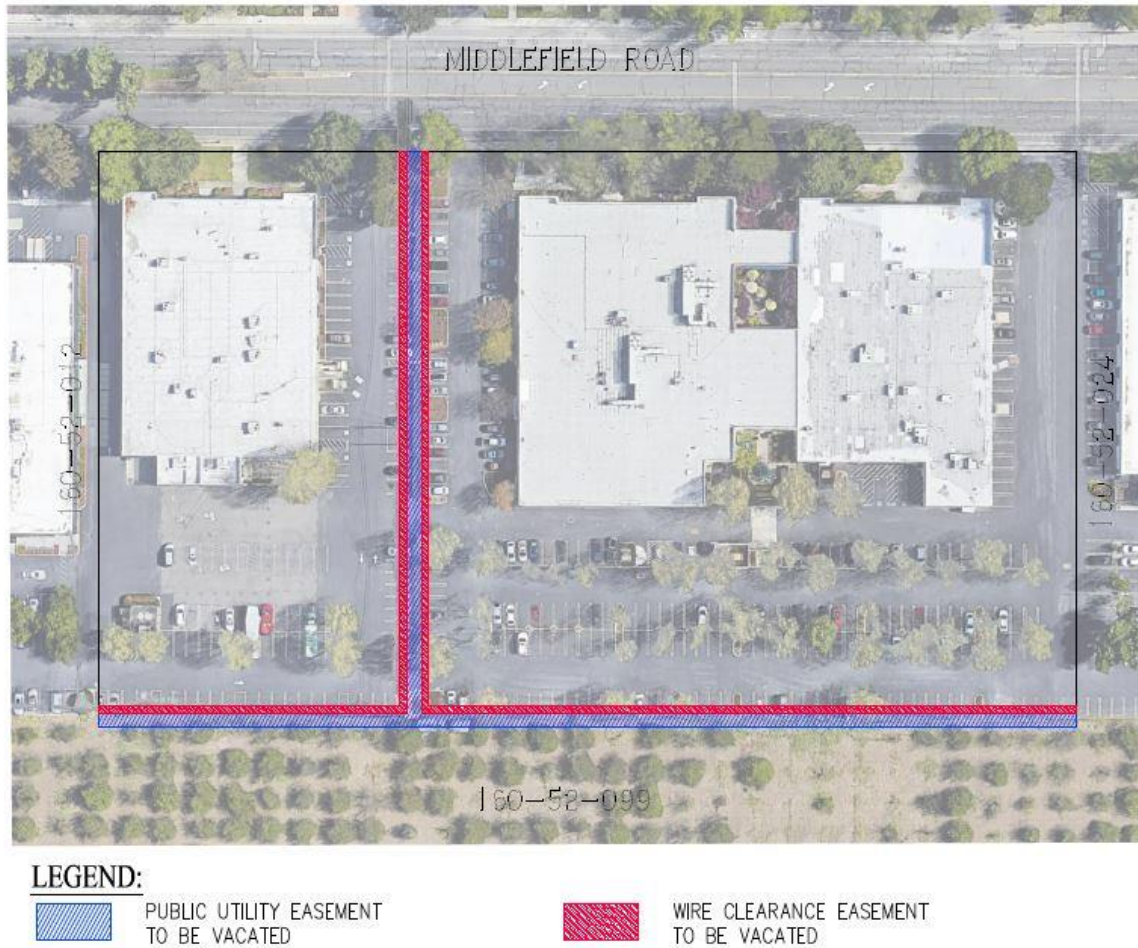


Figure 7: Easement Vacation

When the City plans to vacate easements as part of a private development process, staff evaluates whether there is any value contributed to the developer by the vacation. In some cases, for example, vacating an easement will provide space for the development of additional residential units and increase the value of the development. Staff also considers how the easements were created and their intended use. Utility easements on the sides and rear of parcels in this area of the City are common, and the buyer of these properties would anticipate that it would be possible to relocate the easements as long as the benefit to the easement holder is the same. The easements and utilities that serve the subject property will be relocated when the property is developed.

Staff is recommending vacating the easements without compensation for three reasons: (1) no value is added to the development; (2) the easements were dedicated to the City and not purchased by the City; and (3) the easements were intended as a general benefit

to all public utility providers and were not granted to the City for the City's exclusive use. If these easements had been acquired by the City after paying market value (rather than being dedicated at no cost), and/or if the easements were exclusively for the benefit of the City, staff would recommend compensation for relinquishing the easements, but neither of these conditions apply in this case.

ENVIRONMENTAL REVIEW

The East Whisman Precise Plan Integrated Final Environmental Impact Report (FEIR) comprehensively evaluated the environmental impacts of the EWPP, which allowed up to 2.3 million square feet of net new office uses, 100,000 square feet of retail uses, 200 hotel rooms, and 5,000 multi-family residential units.

The City Council certified the EWPP FEIR and approved the EWPP in November 2019. Subsequent activities, which were included in the scope of a program EIR, may be determined to be adequately evaluated under CEQA and no further environmental documents may be required if it is determined that no new environmental effects will occur and no new mitigation measures would be required for the subsequent activity.

An Initial Study of Environmental Significance was prepared to evaluate whether any new environmental effects would occur as a result of the project, which were not already examined under the program EIR, and whether any new mitigation measures would be required (see Attachment 1 – Initial Study of Environmental Significance for the 355-365, 401, and 415 East Middlefield Road Residential Project). Project-specific technical studies were also prepared to provide technical guidance in the areas of air quality and greenhouse gas, trees, bird-safe design, noise, utilities, and transportation.

The Initial Study prepared for the project found that, with implementation of the EWPP standards and guidelines, State regulations, and mitigation measures identified in the EWPP EIR and the 2030 General Plan and Greenhouse Gas Reduction Program EIR, the proposed addition of 463 residential units and associated improvements would not result in any new environmental impacts beyond those evaluated in these EIRs.

FISCAL IMPACT

The subject site currently has a total assessed value of approximately \$19 million. The City's share of property tax is approximately \$30,800 per year. If the site were developed as proposed, the City would receive approximately \$736,500 per year in additional property tax revenue. The targeted sales price of the condominium (podium and townhouse) units is expected to be between \$950,000 and \$1,500,000 (average sales price of \$1,225,000). The total valuation of the project is approximately \$480 million.

Additionally, the project developer would be required to make a payment of approximately \$14.93 million for the remainder of their Park Land dedication requirements, beyond the proposed dedication of an approximately 0.38-acre park land.

Finally, the project is subject to the Transportation Impact Fee estimated at approximately \$884,000, unless the project is issued the building permit which grants final occupancy before January 1, 2021.

CONCLUSION

The EPC and staff recommend approval of the proposed project, associated map, and Initial Study. The project achieves General Plan goals; introduces a residential land use into the East Whisman area; provides a mix of ownership and rental housing types; and complies with the intent of the East Whisman Precise Plan.

The proposed subdivision, together with the provisions for its design and improvements, is consistent with the General Plan Land Use Designation of East Whisman Mixed-Use; and the P(41) East Whisman Precise Plan, including all the requirements applicable to the property; and the Subdivision Map Act.

ALTERNATIVES

1. Do not approve the Environmental Checklist, finding that it is not adequate (if this alternative is followed, the project could not be approved).
2. Approve the project with modified conditions of approval.
3. Refer the project back to the EPC and/or the DRC for additional consideration of topics related to any project component.

PUBLIC NOTICING

The City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. All property owners and tenants within a 750' radius were noticed of this meeting. Since the Public Hearing Notices were sent out, staff has received one comment letter in support of the proposed project (see Attachment 12—Public Comments).

Prepared by:

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- Attachments:
1. Initial Study of Environmental Significance for the 355-365, 401, and 415 East Middlefield Road Residential Project
 2. Resolution for the Planned Community, Development Review, and Heritage Tree Removal Permits
 3. Resolution for a Vesting Tentative Map
 4. Resolution Ordering the Vacation of Public Easements
 5. [City Council Report Dated January 16, 2018](#)
 6. [City Council Report Dated April 17, 2018](#)
 7. [City Council Report Dated October 16, 2018](#)
 8. [EPC Staff Report Dated June 19, 2019](#)
 9. [EPC Staff Report Dated February 19, 2020](#)
 10. Project Plans
 11. [East Whisman Precise Plan](#)
 12. Public Comments