



# COUNCIL REPORT

**DATE:** December 17, 2024  
**CATEGORY:** Public Hearing  
**DEPT.:** Community Development  
**TITLE:** **675-685 East Middlefield Road Mixed-Use Project**

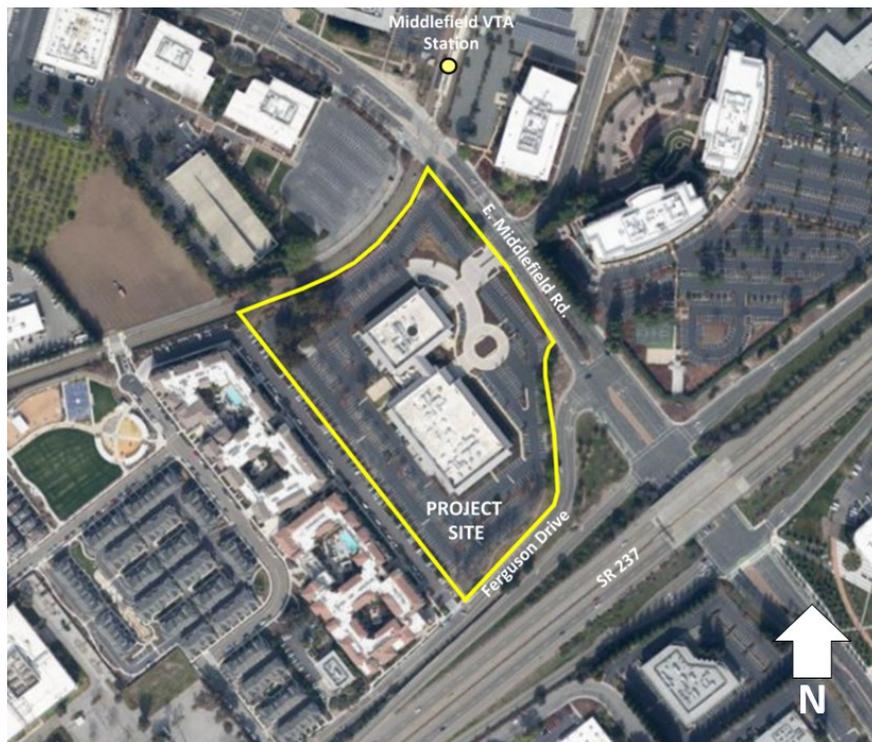
## **RECOMMENDATION**

1. Adopt a Resolution of the City Council of the City of Mountain View Conditionally Approving a Planned Community Permit and Development Review Permit to Redevelop the Project Site by Removing Two Existing Office Buildings and Surface Parking and Constructing a Mixed-Use Development Comprised of 836 Residential Rental Units in Three New Buildings, Including One 7-Story and Two 8-Story Buildings with 2,344 Square Feet of Ground-Floor Neighborhood Commercial Space and a Below-Market-Rate Alternative Mitigation Proposal; a Six-Story, 275,200 Square Foot Building; an 8.5-Level Parking Structure; a 0.52-Acre Privately Owned, Publicly Accessible Park; and a Heritage Tree Removal Permit to Remove 40 Heritage Trees, All on a 10.58-Acre Project Site at 675-685 East Middlefield Road (APN 160-60-013); and Adopting an Initial Study of Environmental Significance Compliance Checklist for the 675-685 East Middlefield Road Mixed-Use Project Pursuant to Sections 15162 and 15183 of the California Environmental Quality Act (CEQA) Guidelines, to be read in title only; further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution of the City Council of the City of Mountain View Conditionally Approving a Vesting Tentative Map to Create Five New Lots, with One Lot Further Subdivided into Six Units for Condominium Purposes For Three Parking Garage Units, Two Residential Units, and One Commercial Unit on a 10.58-Acre Lot at 675-685 East Middlefield Road (APN 160-60-013), to be read in title only, further reading waived (Attachment 2 to the Council report).

## **BACKGROUND**

- **Project Location:** 675-685 East Middlefield Road (APN: 160-60-013), at the southwest corner of East Middlefield Road and Ferguson Drive.
- **Project Site Size:** Approximately 10.58 acres.
- **General Plan Designation:** East Whisman Mixed Use.

- Zoning Designation: P(41) East Whisman Precise Plan (EWPP), within the Mixed-Use Character Area and High-Intensity Subarea.
- Surrounding Land Uses: West/northwest—two- and four-story office/research and development (R&D) buildings, VTA Light Rail; northeast—three and six-story office/R&D buildings; east/southeast—Ferguson Drive and State Route 237; southwest—four-story multi-family buildings (Revela Apartments).
- Current Site Conditions: Two 2-story, multi-tenant office/R&D buildings totaling approximately 163,638 square feet, with surface parking and landscaping.
- Applicant/Owner: Michael Ducote for Prometheus Real Estate Group.



**Figure 1: Location Map**

The applicant, Prometheus Real Estate Group, proposes a new mixed-use development that would fully redevelop the existing site, replacing the existing two-story, multi-tenant office/R&D buildings (totaling approximately 163,638 square feet), large surface parking lot, and associated landscaping with:

- Three new seven- to eight-story residential buildings, with 836 rental apartment units and 2,344 square feet of ground-floor neighborhood commercial space. The three residential buildings are referred to hereafter as the Market-Rate North (MRN), Market-Rate South (MRS) and Below-Market-Rate (BMR) buildings.
- One new, 275,200 square foot office building.
- One standalone office parking garage.
- One 0.52-acre privately owned, publicly accessible park.
- Comprehensive on- and off-site improvements (see Attachment 3—Project Plans).

Prometheus will develop and operate the mixed-use residential development, while their partner, Harvest Properties, will develop and operate the office component of the project. The applicant submitted a Senate Bill 330 (SB 330) Preliminary Application on August 16, 2022, which was deemed complete, with the SB 330 vesting provisions effectuating on that date. The formal application was submitted on December 12, 2022 and deemed complete on April 23, 2024.

### **Prior Meetings and Hearings**

#### **Neighborhood Meeting**

The applicant hosted a neighborhood meeting on February 16, 2023 to introduce the project and solicit feedback from interested parties. The in-person meeting was held in one of the existing office buildings on the project site and attended by nine people. Attendees asked questions about key project issues of interest, including:

- Anticipated size of the trees planted within the linear park at the time of maturity.
- Number of residential units and parking stalls being proposed for the project.
- Demand for residential units given the number of housing projects proposed in the area and current economic conditions.
- Provision of a grocery store or other retail as part of the project.
- Project open space compliance and Americans with Disabilities Act (ADA) compliance of all publicly accessible areas.

Initial responses to stakeholder questions were provided at the meeting by the applicant and City staff. For reference, the project provides approximately 50 new trees in the linear park that are

expected to range in height from 15” to 90” at maturity, depending on species. All publicly accessible areas will comply with ADA requirements. Project data on open space compliance, residential unit/parking counts, and other project details are discussed later in this report. All publicly accessible areas will comply with ADA requirements. Additional written public comment has been received over the course of the review and is attached for reference (see Attachment 5—Public Comments).

### Design Review

Staff has worked with the applicant over the course of the development review process to refine the design based on code requirements and design guidance from the EWPP. The applicant attended two public, Design Review Consultation (DRC) meetings in March 2023 and January 2024, respectively.

Two members of the public spoke at the first DRC meeting providing comments regarding the importance of preserving mature Heritage trees and existing tree canopy on the site and an inquiry regarding the proposed artificial turf at the time for the POPA (since changed to natural sod). Prior to the meeting, an email was submitted to the City commenting on the design treatment of the nonstreet-facing sides of the stand-alone parking garage. During the second DRC meeting, two members of the public spoke, providing comments regarding support of affordable housing but concern with separating it from the market-rate housing, support for the applicant to explore ways to preserve additional Heritage trees and on-site tree canopy, and appreciation that the size of the proposed POPA was increased.

The applicant has worked with staff to address design review input in the current plans, including enhancing the Key Corner (including the “fragrance garden” feature of the office building and POPA improvements), improving the pedestrian amenities around the MRN lobby, increasing landscaping, and refining the outdoor programming within the linear park and other broad landscape improvements. The applicant has also worked to achieve greater variation in materials and finishes/accents to further distinguish each residential building, improve the base and top expression of the residential buildings, provide additional projecting bays/recesses, refine balcony/stoop and rail designs, and to achieve a visually dynamic, four-sided design for the office parking garage.

Staff recommends and the applicant has accepted three design conditions of approval for items to be addressed prior to the building permit submittal (see Attachment 1—Project Resolution), including enhanced landscape screening of the utility rooms facing the linear park; softening the appearance of emergency vehicle access (EVA)/utility-only driveways from Ferguson Drive; and finalizing the placement and pattern (i.e., folding design) of the Kaynemaile hanging panels on the office garage.

### Environmental Planning Commission

The Environmental Planning Commission (EPC) reviewed the project on November 20, 2024 (see [Attachment 4—EPC Staff Report, November 20, 2024](#)). Prior to the meeting (after the hearing materials had been posted), staff received one letter from the public, expressing support for the project but concerns over the limited parking available to the residents of the BMR building and recommended that access to the on-site amenities should be for all tenants; this letter has been added to Attachment 5 (Public Comment). Additionally, on the day of the meeting, the applicant sent an email to the EPC and staff requesting consideration of revisions to draft Conditions of Approval Nos. 110 and 111 regarding timing of the \$12 million supplemental affordable housing funds and timing related to the delivery of the stand-alone BMR building.

Five members of the public spoke at the EPC meeting addressing various issues, including safety concerns due to the proximity of the project's service street driveway on Ferguson Drive to the adjacent Revela Apartments driveway, the importance of inclusionary housing, support for useful open spaces versus overly programmed outdoor space, implementation of dark skies practices, preserving existing tree canopy, a recommendation the project utilize solar and heat pump technology and providing safely lighted paths with canopy coverage along Ferguson Drive.

The EPC thoroughly discussed various aspects of the proposed project, with the most robust deliberations on the applicant's proposed Alternative Mitigation Plan and stand-alone BMR building. Overall, the EPC was complimentary of the project design, POPA park and overall landscape strategy of the project. The EPC also noted there were significant trade-offs between the Alternative Mitigation Plan and meeting the BMR requirement through providing 15% inclusionary BMR units integrated within the project, noting that each option had pros and cons.

Specifically, the EPC noted the Alternative Mitigation Plan would provide a greater number of affordable units but expressed great concern with the lack of parking and equal access to shared common amenities provided for the market-rate buildings, as well as the applicant-proposed timing of the \$12 million supplemental affordable housing funding. If the project were to comply with the City's 15% inclusionary requirements, the EPC acknowledged that fewer affordable units would be created, but BMR residents would have comparable access to parking and amenities and the units would likely be delivered sooner than they would under the Alternative Mitigation Plan.

Ultimately, the EPC voted 7-0 to recommend that the City Council adopt the staff recommendation to conditionally approve the project and vesting tentative tract map pursuant

to staff-recommended conditions of approval and deferring to the City Council authority to consider the Alternative Mitigation Plan. The EPC also recommended:

- Staff work with the applicant to review the applicant-requested modifications to Condition of Approval Nos. 110 and 111, to study options to further modify the request to include terms with an annual escalation factor to the \$12 million supplemental funding for the requested extended (delayed) payment timing proposed, to ensure it provides the same relative value as the current funding amount at the time of payment. This will be discussed further in the BMR Analysis section and Fiscal Impact section below.
- The applicant (Prometheus) work with its office partner to consider a shared parking agreement to allow residents of the stand-alone BMR building to have access to the adjacent office parking garage spaces outside of normal office operational hours, to provide additional parking opportunities for those residents.
- The applicant to explore opportunities for residents of the BMR building to have shared access to certain market rate amenities (ex. courtyard pools and fitness rooms).

## **ANALYSIS**

### **General Plan**

The site has a General Plan Land Use Designation of East Whisman Mixed-Use, which promotes a mix of land uses including “offices, neighborhood-serving commercial, multi-family residential, lodging, and small businesses in the core of the East Whisman area [...]” The proposed project is consistent with the General Plan’s vision for land uses in the area, and promotes the following General Plan policies:

- **LUD 3.2: Mix of land uses.** Encourage a mix of land uses, housing types, retail and public amenities, and public neighborhood open spaces accessible to the community.

*The project includes a mix of office, residential and neighborhood-commercial uses, plus a POPA park and other publicly accessible open spaces (such as the linear park), providing amenities to serve residents, employees, and the broader community.*

- **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 project includes public sidewalk improvements and an onsite service street, as required by the EWPP, which provides multi-modal access through the site for vehicles, bicyclists, and*

*pedestrians. Additional linear open spaces and landscaped paths provide a more fine-grain network of nonvehicle connections on-site.*

- LUD 10.1: Sustainable design and materials; and LUD 19.2: (East Whisman). Encourage high-quality and sustainable design and materials.

*The nonresidential building(s) will meet the intent of LEED Platinum® building construction and design and the residential buildings will achieve a minimum of 120 points on the Green Point Rated system, including all-electric building design. The project also includes sustainable measures such as low-water-using landscape design.*

- LUD 19.1: Land use and transportation. Encourage greater land use intensity and transit-oriented developments within one-half-mile of light rail transit stations. (East Whisman)

*The project utilizes the EWPP Bonus Floor Area Ratio (FAR) (nonresidential and residential) to build greater intensity within one-half mile of the Middlefield VTA Light Rail Station.*

- LUD 19.3: (East Whisman) Connectivity improvements. Support smaller blocks, bicycle and pedestrian improvements, and connections throughout the area.

*The project improves multi-modal connectivity through the 10.58-acre project site via the publicly accessible, L-shaped service street and linear park pathways.*

## **Zoning**

### **East Whisman Precise Plan Standards**

The project site is located in the Mixed-Use Character Area and High-Intensity Subarea of the EWPP, where a broad range of uses are permitted, including residential, retail and services, entertainment, hotel, and office/R&D uses. The project is utilizing the EWPP Bonus FAR Program to develop additional floor area beyond the established Base FAR for residential and nonresidential projects in the EWPP. The EWPP Bonus FAR Program provides an alternative option to State Density Bonus Regulations for developments proposing to exceed allowed Base FAR.

The project substantially complies with applicable EWPP development standards, as detailed below, and proposes certain design exceptions that may be allowed per the EWPP.

**Table 1: Project Compliance with the EWPP**

Standard	Requirement	Proposed
<b>Maximum Building Height</b>	Max. 95'	MRN: 92'-10"
		MRS: 89'-5"
		BMR: 88'-11"
		Office <sup>1</sup> : 91'-1/2"
		Parking Garage: 87'-1"
<b>Street Wall Location</b>	Building facades within 20' of the planned inside edge of public sidewalks (i.e., back of walk); applies to Middlefield Road and Ferguson Drive	~22' – 72' <sup>2</sup>
<b>Ground Level Wall Plate Height</b>	Residential ground-level plate heights must be at least 12' above primary frontage sidewalk grade	Min. 11' <sup>2</sup>
<b>Residential Patio Heights</b>	Entry patios may be at-grade or raised up to 3' above the sidewalk grade	3.5' – 5'-3" <sup>2</sup>
<b>Floor Area Ratio (FAR)</b>	Residential: 1.00 Base FAR	2.115 FAR
	Nonresidential: 0.4 Base FAR	0.596 FAR
	With Bonus FAR: 3.50 FAR (combined max.)	Combined: 2.711 FAR
<b>Setbacks</b>	From P/L on Public Streets: 5' (min.)	Varies: 11'-9" to 20'-3"
	Side and Rear Where No Streets Exist: 15' (min.)	Varies: min. 15' provided
	Service Street Building-to-Building Clearance: 65' min., except 5' less allowed for each side with an active priority frontage	Office to MRN: 69'-11" min.
		Parking Garage to BMR: ~63' <sup>2</sup>
<b>Parcel Size</b>	Min. 1-acre for subdivided parcels	0.8 acre (Lot 3) <sup>2</sup>
<b>Parcel Dimensions</b>	Min. 150' (depth and width) for subdivided parcels	41'-6" to 67' <sup>2</sup> (width); depth > 150'
<b>Common Usable Open Area (min.)</b>	Residential: 120 sq. ft./Unit	Total Project Req.: 128,315 sq. ft.
	Non-residential: 100 sq. ft./1,000 GSF	
<b>Public Open Space</b>	Mini-Park Required: 0.3 to 1 acre	0.52 acre
<b>Commercial Loading Spaces</b>	13 full-size stalls	9 provided <sup>2</sup>
<b>Short-Term Bicycle Parking Spaces</b>	Office: 14 spaces	14
	Retail: 2 spaces	8
	Multi-Family: 83 spaces	98
	POPA: N/A	8 <sup>3</sup>
<b>Long-Term Bicycle Parking (Resident/ Employee) &amp; Shower Facilities</b>	Office: 139 spaces	139
	Retail: 2 spaces	2
	Multi-Family: 836 spaces	839
	Office: 6 unisex showers	6
<b>Personal Storage</b>	1 for each residential unit: 836	839
<b>Main Entry Location</b>	Building entrances located within 30' of the corner	~85' <sup>2</sup>

<sup>1</sup>The office building height measures 104'-1 1/2" to the top of the covered mechanical penthouse/screening structure. The additional mechanical penthouse/screen height above the 95' max. height limit is allowed per City Code Sec. 36.08.30(e).

<sup>2</sup>Design Exception Request. See analysis, below, for further information.

<sup>3</sup>The applicant is voluntarily proposing eight (8) short-term bike spaces for the POPA.

### *Requested Exceptions to EWPP Standards*

The EWPP's standards help implement the Precise Plan's vision and principles, and direct future development and infrastructure in East Whisman. These standards prescribe specific technical requirements the project must abide by to maintain project compliance. Section 6.2.3 (Development Standard Exceptions) of the EWPP allows exceptions from adopted standards, including three specifically defined exceptions and more general flexibility to facilitate development with variations that meet the purpose and intent of the Precise Plan and result in a superior design or outcome for the community.

Staff has reviewed the applicant's requested exceptions and determined they meet defined criteria and/or the intent and purpose of the EWPP, resulting in a superior project design or outcome for the community. More detailed analysis of the exceptions is attached to this report (see Attachment 6—Design Exceptions Staff Analysis), consistent with the following summary:

1. **Street Wall Locations.** In limited locations, proposed buildings are located 22' to 72' from back of walk along public street frontages, in excess of the 20' maximum. Staff supports this exception because the project meets EWPP criteria for allowing increased setbacks as appropriate for building breaks, parks and high-quality open spaces, articulation, and other design considerations.
2. **Ground Level Wall Plate Height (Residential).** The MRS building has 11' ground-level (wall) plate heights, which is less than the 12' standard. Staff supports this exception because full compliance would increase the building height, to an extent requiring compliance with high-rise building standards in the Fire Code, making the project financially infeasible. Also, 20 of the 30 ground-floor units are two-story units with double-height ceiling area, which achieves a similar appearance to compliance with this standard.
3. **Residential Patio Heights.** Residential patios must not exceed a maximum 3' patio-to-sidewalk grade height. The existing topography has a 10' grade differential, which results in 11 of the MRN building's 23 ground-floor patios having heights of 3'6" to 5'3". Staff supports this exception as the majority (77%) of the total project patios compliant and retaining the patios provides important, ground-level character.
4. **Setbacks (Building-to-Building Clearance).** The building-to-building clearance between the office parking garage and BMR building is approximately 63', 2' less than the 65' standard. The reduced clearance is due in part to City/VTA direction for the rear office loading/service access to occur completely on-site, instead of connecting directly to/from East Middlefield Road. Staff supports this exception because the design meets the intent of the clearance standard, providing landscaped on-site sidewalks and required fire lane dimensions, and

achieves an overall site plan with fewer conflicts with the VTA light rail tracks and vehicle/pedestrian movement along East Middlefield Road.

5. **Parcel Size (Lot 3).** The project proposal would create four new parcels, one for each building area plus one common area lot. New subdivided lots are required to be at least one-acre, but the EWPP allows affordable housing projects on dedicated land to be a minimum of 0.75 acre. Lot 3 is a 0.8-acre parcel, which meets the intent of the criteria because the applicant plans a standalone BMR building on the parcel as part of their Alternative Mitigation proposal. As part of the proposal, the applicant would partner to construct the BMR building rather than dedicating the land for later development. The applicant's proposal does align with the intent of this standard to allow a smaller parcel size on a parcel dedicated entirely to construction of affordable housing.
6. **Parcel Dimensions (Lot A).** All of the parcels comply with the EWPP minimum dimension (depth and width) of at least 150', except "Lot A" (the common lot). Staff supports the exception because Lot A is proposed as a nondevelopable lot comprised entirely of the on-site street (a required connection per the EWPP) so it can be jointly maintained by each ownership entity in the project.
7. **Commercial Loading Spaces (Office Loading Stalls).** The proposal includes three (3) full-size (10'x25') and six (6) standard-size (8'x18') spaces. Based on the office square footage, the EWPP would require 13 full-size loading stalls, with discretion for some to be standard size. Staff supports the reduced overall number and use of standard-size stalls, given the range of loading, pick-up/drop-off, and delivery services proposed at the site. Project conditions of approval would allow review, if issues arise, and enable the City to require the applicant to provide additional loading stalls if loading needs exceed the demand anticipated at this time.
8. **Main Entry Location (Office Lobby).** The building's main entry is roughly 85' from the key corner, facing the on-site street/POPA park, instead of the EWPP's maximum 30' setback and orientation to a public street. Staff finds the project achieves a superior design by providing an enhanced and activated pedestrian experience along East Middlefield Road, prioritizing landscaping over entry hardscape, including an extensive "fragrance garden" and seating at the key corner, leading to the POPA park.

#### **EWPP Bonus FAR Programs and Office Development Reserve**

The applicant proposes to use the provisions of the EWPP Bonus FAR Program to develop additional floor area beyond the established Base FARs for nonresidential and residential projects. For residential and mixed-use projects, the EWPP Bonus FAR Program provides an alternative option, in lieu of State Density Bonus Regulations, to develop such additional floor area. The proposed development is eligible to request Bonus FAR for both residential and

nonresidential building area, based on its compliance with the following Bonus FAR Program requirements:

**Table 2: EWPP Residential and Nonresidential Bonus FAR Program Requirements**

Development Type	Base FAR	Proposed	Maximum FAR w/Bonus	Requirements
Residential	1.00	2.115	3.50 <sup>1</sup>	<ul style="list-style-type: none"> <li>Community Benefit Contribution</li> <li>Min. 120 Green Point Rated points (or equivalent)</li> <li>Min. 15% BMR units in compliance with BMR Ordinance and Administrative Guidelines</li> <li>Does not include a City Density Bonus (per State Density Bonus Regulations)</li> </ul>
Nonresidential	0.40	0.596	1.0	<ul style="list-style-type: none"> <li>Community Benefit Contribution</li> <li>LEED BD+C Platinum® or equivalent</li> <li>Jobs-Housing Linkage Plan Compliance</li> </ul>

The applicant proposes to comply with the green building standard requirements for Bonus FAR projects and jobs-housing linkage plan requirements for the proposed non-residential Bonus FAR, as discussed below. The project also includes an Alternative Mitigation Proposal to satisfy BMR requirements, analyzed in more detail later in this report.

To satisfy Bonus FAR community benefit contribution requirements, the project will provide a monetary contribution for both the proposed residential and nonresidential Bonus FAR, as detailed in Table 3 below. These funds will be utilized within the EWPP area, at the discretion of City Council, and are proposed instead of constructing a community benefit or district improvement project such as affordable housing, transportation/utility improvements, etc.

<sup>1</sup> In mixed-use projects, the maximum 3.5 FAR is inclusive of nonresidential FAR, of which the nonresidential FAR may not exceed 0.4 FAR (Base) or 1.0 FAR (if nonresidential Bonus FAR is proposed).

**Table 3: Bonus FAR Program Community Benefit Contributions**

Type	Bonus Floor Area (above Base FAR)	Community Benefit Value <sup>2</sup>	Community Benefit Contribution
Residential	514,093 SF	\$6.23 per SF	\$3,202,799
Nonresidential	90,778 SF	\$31.12 per SF	\$2,825,011
<b>Total</b>			<b>\$6,100,756 (est.)</b>

The project request to use 90,778 square feet of nonresidential bonus floor area pulls from the 2 million square foot EWPP Development Reserve, in exchange for the community benefit contributions noted above. With approval of this project, the EWPP development reserve will retain 493,626 square feet for use by other nonresidential projects in the area.

EWPP Jobs-Housing Linkage Program

Within the EWPP, the Mixed-Use Character Area provides the most land use flexibility and utilizes the Jobs-Housing Linkage Program to encourage balanced office and residential growth. This program requires all new office development requesting Bonus FAR to facilitate residential development. As required, the applicant submitted a Jobs/Housing Linkage Plan (see Attachment 7—Jobs-Housing Linkage Plan) specifying the proposed strategies used to facilitate residential development and an associated phasing/housing delivery plan.

Specifically, the EWPP requires projects to facilitate or build at least three housing units for each 1,000 square feet of net new nonresidential floor area proposed in a project. This project includes 111,562 square feet of net new office floor area, which would require approximately 335 units be created by the project per the jobs-housing linkage ratio. The project proposal to construct 836 total units exceeds this requirement.

The EWPP also specifies the applicable residential units should be constructed before the City grants occupancy to the equivalent nonresidential area, unless otherwise determined by City Council, noting that strict timing requirements may be modified if additional certainty is provided such as a deed restriction or land dedication to an affordable housing developer. The applicant is proposing a two-phased housing delivery plan with the MRN building being constructed in Phase I (322 units), with the MRS building and office building delivered in Phase II, and the deed-restricted BMR building (150 units) being fully financed with construction commencing prior to issuance of the certificate of occupancy for the MRN building; the project’s Alternative Mitigation Proposal and BMR Program compliance are discussed later this report.

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<sup>2</sup> Based on Fiscal Year 2024-25 Fee Schedule.

## **Project Details**

### **Site Plan**

The project is organized around a new “L-shaped” onsite roadway, connecting between East Middlefield Road and Ferguson Drive, and significant on-site open space improvements. Off East Middlefield Road, the on-site roadway aligns with Logue Avenue at the project’s “key corner” (as identified in the EWPP). The on-site “service street” is publicly accessible and provides multi-modal connections through the site, to each new building and on-site parking resources. The on-site street separates the commercial office building and parking garage from the residential uses, POPA park, and other open space amenity areas that comprise the rest of the project. The street also provides access to a loading/utility drive, which runs behind the office garage to the office building, providing access for Recology service, PG&E service to electrical service equipment and large loading/delivery trucks utilizing the office building loading dock.

Proposed open space improvements include the 0.52-acre POPA park located prominently at the key corner along East Middlefield Road. A large, linear park provides a break between the proposed market-rate residential buildings, serving as both an additional publicly accessible outdoor area and pedestrian circulation corridor through the project site. The linear park aligns with an interstitial office amenity space between the office building and parking garage.

### **Urban Design and Building Descriptions**

The underlying urban design approach of this project is to create an urban “garden district” of higher-intensity office, residential, and neighborhood commercial development replacing a car-focused, low-intensity office campus. The project integrates with public frontages while also providing a more fine-grained network of public pedestrian connections through the site, which also add open space amenities for people (residents and visitors) to enjoy. Private open spaces within the project are oriented towards public spaces, and project buildings include engaging features (e.g., ground-level entries, transparency, and other elements encouraged by the EWPP).



**Figure 2: Site Plan**

The project is located on a prominent (“key”) corner in the EWPP, where special building and open space design is intended to provide a sense of place, wayfinding, and architectural interest. The project’s main site entry occurs at this corner and the project complies with these requirements (with approval of the requested design exception) by placing the proposed 0.52-acre POPA park prominently on the residential side of the corner with the fragrance garden and associated open space improvements occurring on the office building side of the corner. The POPA park is programmed with a demonstration garden and natural habitat area, trellis structure, bocce ball court, seating and gathering areas, and other amenities that are highly visible from East Middlefield Road. The neighborhood retail space anchors the south end of the POPA.



**Figure 3: POPA Park and MRN Building (Middlefield Road Perspective)**

### *Residential Buildings*

The residential portion of the project is comprised of three buildings, located on the easterly portion of the site, with a combined total of 836 rental apartment units:

- MRN is a seven-story building providing 322 units and 2,344 square feet of ground-floor neighborhood commercial space adjacent to the proposed 0.52-acre POPA park.
- MRS is an eight-story building providing 364 units.
- The standalone BMR building is eight stories and provides 150 affordable units; Prometheus proposes to partner with an affordable housing developer to construct this standalone building to satisfy BMR Ordinance requirements through an Alternative Mitigation proposal (discussed in detail later in this report).

Each residential building contains underground and/or at-grade structured parking and a wide range of unit sizes/types, including studios, one-bedroom, two-bedroom, one-/two-bedroom with den, and three-bedroom units. In the market-rate buildings, units range from 520 square feet (studios) up to 1,220-1,850 square feet (three bedroom). In the BMR building, units range from 580 square feet (studios) to 1,050 square feet (three bedroom).

### *Office Buildings*

The office development includes a new six-story, 275,200 square-foot office building located at the northwesterly corner of the project site, and an 8.5-level, office parking garage with 638 parking stalls near the southwesterly corner of the site.

## **Project Design**

### *Residential Buildings*

The architectural design of the residential buildings is contemporary, consisting of rectilinear building forms and facade programs that respond to different site contexts. Building massing varies around the site with vertical breaks, projecting bays, upper-floor step-backs, and reduced height areas intended to break up the scale of the buildings in context to surrounding site conditions. The ground level of the residential buildings similarly addresses different site contexts, employing varied ground-level design features for what the applicant has termed the “public,” “retail,” “urban loft,” and “garden loft” building interfaces.

In keeping with the garden district concept, the residential buildings have large windows and varied balcony treatments. The residential color and material palette features earthy hues and textures, which aim to present a warm, urban residential character. Primary residential materials include stucco, wood-like siding, and brick with other traditional construction materials, including glass and metal railings as well as steel/glass/wood trellis canopies. While the same material palette is generally utilized for each residential building, the buildings apply the finish materials, colors, and architectural accents (e.g., cornices, sunshade, brick patterning, wall bands, etc.) in varied ways to create a cohesive appearance while also trying to distinguish the buildings from each other.

### *Office Building*

The proposed six-story office building presents an elegant contemporary design intended to express the building’s heavy timber (or “mass timber”) structure and employ similar natural materials and tones to relate to the residential color and material palette. The facade is framed through “vintage black smooth” brick veneer columns, accented by wood columns and soffits, wood-look spandrel (window) panels in upper floors, and painted aluminum channel fascia at the Key Corner to provide a simple, strong architectural expression. The key corner of the office building is anchored by larger terraced spaces at the third- and fifth-floor levels, which are intended to relate to the POPA park and partially protect ground-level seating areas associated with the fragrance garden feature. Similar terraces are provided at the back of the office, above the VTA tracks (facing west), and above the private open space between the office and stand-alone parking garage.



**Figure 4: Office Building (POPA/East Middlefield Road Perspective)**

### *Parking Garage*

The office parking garage provides a four-sided design that features a combination of ornamental vines grown on a steel cable system and Kaynemaile architectural mesh panels in varied green colors, which are proposed to drape in a folding pattern over concrete sheer walls. The intent of the garage facade treatment is to create a dynamic living and moving screening element, which relates to the garden district concept. Garage stairwells are placed prominently as a passive wayfinding element and additional accent. Landscaping will surround the garage to mitigate views into the garage, particularly at the pedestrian level.



### **EWPP Streetscape Improvements**

The EWPP identifies specific streetscape design standards for the project's on-site street and adjacent public street frontages. The street typology standards require an 8' wide, detached sidewalk with a 6' wide planter strip along East Middlefield Road. A 5' wide detached sidewalk with a 5' wide planter strip is required along Ferguson Drive (per adjacent South Whisman Precise Plan standards). The planter strip along both public streets will be a landscape strip with new street trees planted, separating the public sidewalk from each roadway.

The project complies with the applicable streetscape standards, except where two existing Heritage trees (Tree Nos. 1362 and 1363) will be preserved along Ferguson Drive. In this case, the sidewalk will meander from detached sidewalk to a 5' wide attached sidewalk, consistent with staff's recommendation.

### **Open Space and Landscaping**

#### *Open Space*

The project proposes 129,449 square feet of common usable open space area (CUOA), which exceeds the minimum EWPP requirements indicated in Table 1 and is exclusive of the 0.52-acre (or 22,600 square feet) POPA park, which provides additional open space for use by the public, residents, and employees of the project. The CUOA includes a combination of both publicly accessible and private common open spaces in multiple locations, including the linear park areas between the residential buildings, passive landscape areas around the perimeter of the project site and along individual buildings at street level, elevated office terraces, and rooftop common

decks and podium courtyard areas on upper floors of the residential buildings in addition to the private unit patios/balconies. The CUOAs include a range of amenities such as pools/spas, lounge areas, seating and gathering spaces, and gardens with special landscaping features.

### *Tree Preservation and Removal*

The project site contains 241 existing trees, including 47 Heritage trees. The existing inventory is comprised largely of mature parking lot trees with some larger trees located primarily around the perimeter of the site. The most prevalent species include: purple leaf plum, liquidambar, Southern magnolia, crape myrtle, Chinese pistache, and sycamore trees. The project proposes to remove 234 total trees, including 40 Heritage trees, and will preserve seven (7) mature Heritage trees (Tree Nos. 747, 1267, 1360-1363, and 1432) comprised of Valley oak, Coast live oak, liquidambar, and Southern magnolia species.

The applicant collaborated with Planning Division, Public Works Department, and Urban Forestry Division staff to closely evaluate the health of existing trees and identify opportunities to preserve additional trees, including preservation through transplantation. Given the comprehensive redevelopment proposed on the site, there were limited locations where existing trees did not directly conflict with required public street improvements, onsite streets and/or proposed building footprints. Therefore, focus was placed on studying the limited remaining areas where existing trees could feasibly be retained in place, particularly 18 trees lining the northeast site perimeter along East Middlefield Road and a section of Ferguson Drive where construction of the EWPP public street improvements are proposed.

After extensive analysis, staff is recommending the project proposal to construct the EWPP street typology standard along Middlefield Road, with wider detached sidewalks. Construction of the EWPP street typology will result in removal of more existing trees though three trees will be able to be preserved (Tree Nos. 1362-1363, and 1432). This determination was based on three primary factors:

- The trees would need to be removed due to direct conflicts with EWPP streetscape improvements or had a high likelihood of near/medium-term health decline or failure due to root disturbance resulting from demolition/re-grading necessary to construct the new detached, 8' sidewalk and 6' planter strip.
- The likelihood of long-term health and survival of the trees would not be substantially improved by replacement of the existing 4' to 5' monolithic sidewalk in kind (i.e., same approximate location/dimensions) with upgrades for ADA compliance.
- Though other alternatives were studied to preserve the trees, no alternative would have preserved all 18 trees, and, given the high-risk of tree failure in any scenario, the greatest long-term benefit would come from the applicant installing EWPP streetscape

improvements, including new Halka maidenhair street trees (East Middlefield Road) and new scarlet oak street trees (Ferguson Drive).

The applicant and staff found that shoring would be required to preserve the trees in their existing raised berm areas, which also contributed to the challenge of retaining the trees with limited or no root disturbance. Additionally, Urban Forestry Division staff has indicated that Southern magnolias are particularly sensitive to root disturbances, and their proximity to where the excavation and shoring activity would occur means it is likely some trees would fail during construction or see significant decline to their health within one to 10 years postconstruction. Constructing the EWPP requirements now, with the project, would implement vital EWPP street improvements funded by the applicant, retains the integrity of the office building key corner design (i.e., “fragrance garden,” etc.), and provides better viability of long-term tree canopy coverage with tree growth starting without any delay.

*Tree Planting Plans*

The applicant proposes 346 new tree plantings (324 trees plantings on-site + 22 street trees off-site), including approximately 100 California native trees (i.e., California buckeye, incense-cedar, black oak, Valley oak, and Western redbud). The proposed Heritage tree removals meet the City’s required findings for removal and the project proposes an overall replacement ratio of 3.8:1 which exceeds the typical 2:1 Heritage tree replacement ratio. It is anticipated within 20 years, at full maturity, the project will nearly double the existing tree canopy. The projected tree canopy site coverage through specified growth phases is summarized in Table 4 below.

**Table 4: Tree Canopy Coverage**

<b>Canopy</b>	<b>Site Coverage</b>
Existing Canopy	27.2%
New Canopy (Completion of Construction)	4.2%
New Canopy (5-10 years)	27%
New Canopy (Maturity)	52.6%

In addition to new tree plantings, the project proposes a comprehensive landscape program that includes approximately 17,750 new under-story plants, of which more than half (51.5%) the total number of plantings will be California native species. Landscape plantings are proposed in defined ground-level planter areas around the perimeters of each building to soften the transition to the building structures, as well as in planter areas along the service street and between surface parking spaces. There are several raised planter areas incorporated into the steps leading up to the office and residential courtyards and along the linear park where understory plantings and trees will be located. Approximately 86% of the project’s proposed landscaping will be drought tolerant, “low-water-use” species.

## **Parking**

The project site is located within one-half mile of a major transit stop and is subject to the provisions of Assembly Bill 2097 (codified in Government Code Section 65863.2), which restricts the City from imposing minimum parking requirements on the project. Additionally, even if the City was able to enforce its parking requirements, the project site is located outside the EWPP's parking "buffer zone," meaning new office/R&D and multi-family residential uses are subject only to parking maximums.

However, to ensure viability of the mixed-use project, the applicant is voluntarily providing a total of 1,482 office and residential structured parking spaces and 21 surface spaces for truck and passenger loading, drop-off services, car-share vehicles, and visitor parking, located primarily along the service street (two loading stalls are located in the loading bay behind the office). The applicant must also comply with applicable loading, ADA and electric vehicle parking standards.

Office Garage: The office parking garage provides a total of 638 parking stalls for use by the tenants of the office. Ground-level stalls include six standard-sized loading stalls for loading, pick-up/drop-off, and delivery services, and three car share spaces. Two full-size loading stalls are part of the office loading bay, and an additional full-size loading stall (for pick-up/drop-off loading) is provided in front of the office building, opposite of the POPA park.

Residential Structured Parking: The MRN garage includes two levels of underground parking, 452 total parking spaces, including 323 spaces for residents, five spaces for the leasing office (available for shared use after hours), and 124 shared spaces available to: residential visitors (every day from 8:00 a.m. to 11:00 p.m.), office workers (weekdays from 8:00 a.m. to 6:00 p.m.), and retail/POPA visitors (every day, 8:00 a.m. to 6:00 p.m.). MRS and MRN residents will have access to the 124 shared spaces on nights and weekends. The MRS building provides 359 resident spaces located in one at-grade and one underground parking level. The BMR building contains 33 parking spaces located in one at-grade parking area and BMR building residents would not have access to the parking spaces in the market-rate buildings.

### *Bicycle Parking*

The project provides a total of 980 long-term bike spaces located in secure bike rooms and inside residential units and 128 short-term spaces located in prominent locations near building entries and in open space areas. Six unisex showers intended to serve bike commuters are provided in the office building. Additionally, the project provides two bike repair stations that are also available for use by the public. Overall, the project exceeds both the minimum short- and long-term bicycle parking requirements for the office and residential buildings and provides additional bike amenities, in support of the EWPP's vision of promoting cycling as a major transportation mode.

## **Transportation**

### **Transportation Demand Management**

The EWPP requires all new office/R&D developments (i.e., nonresidential) with new construction or additions greater than 10,000 square feet and new residential development projects with at least 100 units provide a transportation demand management (TDM) plan that provides details on the implementation and reporting of TDM site design and operational measures, including maximum parking and carshare requirements, site design supportive of alternative travel modes (e.g., orienting building entrances toward sidewalks, transit stops, and bicycle routes), bike parking, and supportive facilities such as changing rooms and showers, and joining the Mountain View Transportation Management Association (TMA).

The project has provided a TDM plan (see Attachment 8—Transportation Demand Management) that meets EWPP requirements for both nonresidential and residential projects which includes, but are not limited to, the following additional site design and operational measures based on use:

#### *Nonresidential EWPP TDM Measures*

- Compliance with the EWPP Trip Cap of 0.95 a.m. and 0.88 p.m. peak-hour trip per 1,000 square feet of office.
- Monetary measures for alternative modes (i.e., subsidized transit passes, etc.); TDM coordinator and marketing; priority parking for carpools/vanpools.

#### *Residential EWPP TDM Measures*

The same measures proposed for TDM implementation and annual monitoring for the nonresidential component would also apply to the residential development with the following additional measures for the residential component:

- Achieving a 9% vehicle trip-reduction consistent with the Greenhouse Gas Reduction Program, or other City trip-reduction standard.
- Accessible, secure storage space for grocery and package delivery.
- Shared, common, collaborative workspaces for residents and guests (for residential projects over 100 units).

In association with the TDM plan measures outlined above, the mixed-use project will provide eight (8) total designated car-share spaces, including three located in the office parking garage

and five along the service street for residents, which will be available to use 24/7, on-demand. In addition to exceeding certain bicycle parking standards, the project includes publicly accessible, multi-modal bike and pedestrian paths connecting to surrounding public infrastructure (e.g., sidewalks, bus stops, and light rail) and additional amenities such as two (2) bike repair stations available for use by office employees, residents, and visitors. The applicant also proposes to seek a bike-share vendor to serve the site, and, if not available, will provide residents with access to a fleet of up to five (5) shared bicycles.

### Multi-Modal Transportation Analysis

As part of the City's Vehicle Miles Traveled (VMT) policy, adopted in June 2020, Council endorsed requirements for local-level analysis of (non-CEQA) multi-modal transportation impacts (including bicycle, pedestrian, and vehicle movements), which are consistent with standards and policies set forth by the City and VTA Congestion Management Program (CMP) and referred to as a Multi-Modal Transportation Analysis (MTA).

An MTA was prepared for the project by Hexagon Transportation Consultants, which provides analysis and supplemental review of the project's multi-modal transportation improvements and setting. The MTA focused on evaluating the potential traffic operational effects at intersections in the project vicinity under near-term conditions and identifies whether the project would contribute to the cumulatively adverse intersection effects identified in the EWPP Final EIR. The MTA concludes the project should implement TDM measures, discussed in detail above, update the traffic signal at the Middlefield Road/Logue Avenue intersection to an eight-phase signal and make other streetscape improvements outlined in the Streetscape section of this report.

Given that the project would increase the number of pedestrians crossing East Middlefield Road, the project will upgrade the traffic signal at Middlefield Road/Logue Avenue to an eight-phase signal, which provides safer crossings for pedestrians. The eight-phase signal provides separate phases for left-turning and straight movements, which prevents conflicts between left-turning vehicles and pedestrians in the crosswalk.

### Below-Market-Rate Housing

#### Alternative Mitigation Proposal

The applicant has voluntarily proposed to deliver "off-site" below-market-rate (BMR) units in a standalone BMR building on a parcel within the subdivision proposed as part of the project, through the City's discretionary BMR Alternative Mitigation process. The applicant has proposed an Alternative Mitigation process instead of providing the 15% "on-site" BMR units integrated into the market-rate residential development, which is the objective standard of the BMR Program. The City's BMR Administrative Guidelines outline the requirements for delivery of off-

site affordable housing units in a development project, including quantity, location, suitability, and timing.

### *Number of Off-Site Units*

Alternative mitigation proposals seeking to deliver affordable housing units off-site must provide at least 20% of the total number of residential units proposed for the project. The applicant proposes to deliver affordable units off-site in a standalone building in partnership with an affordable housing developer partner yet to be determined, per their Alternative Mitigation Proposal (see Attachment 9—Alternative Mitigation Proposal) submitted on October 11, 2024. The BMR building would include 150 affordable housing units (approximately 18% rather than 168 units as required (20%)). The proposal also includes a \$12 million supplemental funding payment as an offset for the 18 units not being built, to achieve 20% equivalency. However, the applicant presumes the City will earmark the supplemental funding for the project, in the event it is needed to deliver the BMR building.

The applicant's proposal to earmark the supplemental funding is inconsistent with the intent of the BMR Program, which is to integrate BMR units with market-rate projects without reliance on City funding. By extension, alternative mitigations should be delivered without any City funding. The City Council affirmed that there should be no City contribution for off-site delivery under the alternative mitigation process at its December 12, 2023 Study Session on the upcoming BMR ordinance update expected in Q2 2025. Staff's recommendation is for the \$12 million in supplemental funding to not be earmarked for delivery of the applicant's off-site BMR units, so that the project meets the 20% equivalency without a City funding contribution. Staff has included a condition of approval to reflect that no earmarking is approved as part of the Alternative Mitigation Proposal. The applicant would remain eligible to seek City funding, if necessary, as part of any future Notice of Funding Availability (NOFA) process along with other affordable housing developers in the event the applicant determines additional funding support may be needed. Funding is not guaranteed and would depend on availability of funding, project eligibility, and other NOFA considerations.

The following sections provide a summary of staff's analysis of the BMR Alternative Mitigation Proposal, as compared to applicable BMR Program requirements. More detailed information, including the verbatim alternative mitigation requirements for delivery of off-site units, per the City's BMR Administrative Guidelines, and detailed staff evaluation of each requirement is provided as an attachment to this report (see Attachment 10—Alternative Mitigation Evaluation).

### *Location of Affordable Units*

Off-site location of the BMR units is required to be in a location consistent with the City's goals for housing as expressed in written guidance issued by the Community Development Director or

designee. The applicant plans to build the 150 affordable units on a 0.8-acre parcel adjacent to the market-rate units. While no formal guidance has been issued by the Community Development Director, this location is likely the best option for the off-site alternative mitigation, ensuring the affordable units remain in the neighborhood and have access to jobs and future amenities from the EWPP.

### *Suitability*

Proposed BMR units must be deemed suitable by the City based on location (addressed above), type of project, number of units/bedrooms, compliance with BMR requirements, adjacent uses, comparability to market-rate units, and other planning criteria.

The BMR building's 150 units include a mix of 39 studios, 36 one-bedroom, 37 two-bedroom, and 38 three-bedroom units. Notably, half of the units are larger two- and three-bedroom units, aligning with the City's priority for larger affordable housing for families. Additionally, the project will comply with other BMR suitability requirements by ensuring the units remain affordable in perpetuity and proposing a weighted average of 50% AMI, which is more affordable than the City's standard of 65% AMI.

The proposed BMR building's suitability based on planning criteria such as parking, building height, and setbacks is discussed with the overall project analysis in this report. The BMR building's design is comparable to the market-rate buildings in terms of architecture, color, and materials. The building also includes a roof terrace and small courtyard, with interior amenity spaces tailored to the building's functionality as a standalone BMR project. However, BMR building residents will not be provided access to the market-rate buildings' courtyards, pools, and other premium common amenities of the market-rate development.

### *Timing of Unit Delivery and Supplemental Funding*

Per the BMR Administrative Guidelines, off-site BMR units are required to be completed and receive a CO no later than the issuance of the CO for the market-rate units. Additionally, the Administrative Guidelines stipulate that fees are paid prior to the issuance of the first building permit; and if the residential development is constructed in multiple phases, the full amount of the fee shall be paid prior to issuance of the first building permit for the first phase.

The applicant's alternative mitigation proposal matches their phasing plans, with delivery of the MRN building in Phase 1 and construction of the BMR building to begin at an undefined point after the MRN building. The applicant proposes the issuance of a CO for the MRN building be conditioned contingent on the BMR building being fully funded and construction commenced, rather than the BMR building being fully constructed and receiving CO no later than issuance of the MRN building's CO; if this proposed timing is not met, the applicant would convert 15 percent of the market-rate units into BMR units integrated on-site. The applicant also proposes that the

\$12 million supplemental funding be paid no later than issuance of the MRN building's CO instead of prior to issuance of the building permit.

The applicant's proposal for both unit delivery and supplemental funding does not fully align with the BMR Program requirements:

- Allowing the applicant to receive occupancy of the market rate units before delivering the offsite units poses a risk that the off-site units may not be completed. Staff recommends the applicant be required to comply with the timing requirement for unit delivery, per the Administrative Guidelines.
- Allowing the applicant to delay payment of the supplemental funding to prior to the MRN building's CO instead of by the issuance of the first building permit means that the funding will not be available to advance affordable housing units in the City's current pipeline until much later. Additionally, delaying the payment means that it is possible the applicant may pay the funding and request NOFA funding for the off-site BMR units at the same time, further reducing the likelihood of allocating the funding to the City's pipeline and increasing the likelihood that the applicant's \$12 million supplemental funding will simply go towards their own off-site BMR units.

In summary, staff is supportive of the Alternative Mitigation Proposal, with the following stipulations, included as conditions of approval (see Attachment 1—Draft Project Resolution):

- The applicant agrees to meet the requirement to deliver the off-site units no later than the issuance of the CO for the market-rate units as stipulated in the BMR guidelines as a condition of approval.
- The \$12 million in supplemental funding is not earmarked for the project and is paid prior to issuance of the MRN's first building permit.
- Should the applicant be unable to deliver BMR units through this alternative mitigation proposal, per BMR Program requirements, they will provide the standard 15% BMR requirement as integrated BMR units within the market-rate buildings, ensuring a proportional unit mix and compliance with all applicable BMR standards for on-site units.

### **Subdivision Map**

The project's proposed Vesting Tentative Map creates one common lot (Lot A) and four developable lots (Lot 1: office and stand-alone parking garage, Lot 2: MRN building and POPA, Lot 3: MRS building, Lot 4: BMR Building) on the existing 10.58-acre lot. Lot 2 will be further subdivided into six (6) condominium units (three garage units, two residential units, and one retail unit). Staff recommends approval of the proposed map, inclusive of the lot size and

dimension exceptions discussed earlier in this report and based on the draft findings and conditions of approval in the attached resolution (see Attachment 2—Draft Map Resolution).

## **ENVIRONMENTAL REVIEW**

An Initial Study of Environmental Significance (hereafter “Environmental Checklist”) was prepared for this project to evaluate whether any new environmental effects would occur because of the project, which were not already examined under the previously adopted EWPP Final EIR (FEIR) and whether any new mitigation measures would be required. Project-specific technical studies were prepared to provide technical guidance in the areas of air quality, geology and soils, hazardous materials, utilities, and transportation (see Attachment 11—Initial Study of Environmental Significance). The Environmental Checklist found that with implementation of the EWPP standards and guidelines, City standard conditions of approval, state regulations, and mitigation measures previously identified in the EWPP FEIR, the proposed project would not result in any new environmental impacts beyond those evaluated in these EIRs and that no further environmental documentation is needed.

### **Vehicle Miles Traveled**

The EWPP FEIR identified a significant impact to project-generated Vehicle Miles Traveled (VMT), largely due to the amount of new office planned for the area and existing conditions (i.e., relatively high VMT-generating office uses). However, the City Council adopted a Statement of Overriding Considerations for the EWPP significant impact. Council has also adopted the City’s VMT Policy, providing criteria and methodologies for determining significant transportation impacts of specific projects, consistent with State regulations.

The City’s VMT Policy includes screening criteria for projects which are presumed to have a less than significant VMT impact and would not require further project specific VMT analysis. This project complies with the screening criteria because the site is located within one-half mile of the Middlefield Light Rail Station, has an FAR greater than 0.75, and provides reduced parking supply (less than the City’s maximum parking allowance); therefore, the project is determined to be consistent with the City’s VMT Policy and have a less-than-significant VMT impact.

## **CONCLUSION**

This project is consistent with applicable development standards (upon approval of the requested design exceptions), achieves General Plan, Housing Element, and EWPP goals by increasing market-rate and affordable housing opportunities in the City, and helps the City meet its Regional Housing Needs Allocation (RHNA) requirements. Staff recommends approval of the project subject to conditions of approval.

## **FISCAL IMPACT**

The City's current share of the County of Santa Clara property taxes from the project site is approximately \$246,000 per fiscal year for the General Operating Fund (GOF). If the proposed project is developed per the proposed Alternative Mitigation Plan, with a standalone BMR building, the BMR building site may qualify for property tax exemptions under the State of California Revenue Code for property owned and operated by qualifying organizations and used exclusively for rental housing occupied by lower-income households. If this property tax exemption is granted, the City would receive a net additional property tax of approximately \$489,000, for a total projected property tax of \$735,000. If the site is redeveloped with the proposed project, without the standalone BMR building (i.e., compliant with the 15% BMR inclusionary requirement), the City could receive a net additional property tax of approximately \$610,000, for a total of approximately \$856,000 in property tax revenue per fiscal year.

The project is estimated to pay \$44,014,000 in park in-lieu fees, after accounting for the POPA credit, in accordance with Chapter 41 (Park Land Dedication or Fee In Lieu Thereof) of the City Code.

The project is subject to community benefit contribution requirements for its proposed residential and nonresidential Bonus FAR, pursuant to the EWPP Bonus FAR Program. The project's estimated combined residential and nonresidential Bonus FAR community benefit contribution is an estimated \$6,027,800.

Pursuant to the City's Affordable Housing Program Chapter 36, Article 14, Division 3, the project is subject to a nonresidential (commercial) Housing Impact Fee for all net new office area in the project. The estimated nonresidential Housing Impact Fee is an estimated \$2,911,452.

The project is subject to the adopted EWPP Development Impact Fees for all net new area, by nonresidential land use (i.e., office/R&D and retail area) and for proposed residential units to fund planned public improvements within the East Whisman Precise Plan area. The EWPP Development Impact Fee for the project is an estimated combined \$4,346,474 per the current Master Fee Schedule.

The project is subject to Water and Sewer Capacity Fees and Sewer Capacity Fees for both residential and nonresidential development. The combined residential and nonresidential Water Capacity Fee is an estimated \$3,617,520, and the combined residential and nonresidential Sewer Capacity Fee is an estimated \$2,775,540.

Finally, the project is subject to the Citywide Transportation Impact Fee (TIF), with an estimated fee payment of approximately \$3,095,414 based on the current master fee schedule.

As noted above, the EPC's consideration of the project included studying options for an annual escalation factor to evaluate the potential change in value of the \$12 million supplemental funding payment for affordable housing if payment were to be deferred to CO for the market rate units (per the applicant's request) rather than payment being made prior to building permit issuance. The applicant has indicated that construction is estimated to take approximately 30 months, therefore the escalation factor would be applied during this timespan. As discussed above, staff recommends that the supplemental funding be paid prior to the first building permit and not delaying the payment per the applicant's request. However, in response to EPC input, should Council approve the request for delayed payment, staff evaluated:

- CCI—Past three years of Construction Cost Index (CCI) changes, to provide a recent example of potential future CCI changes associated with this project. The CCI escalations in 2021, 2022, and 2023 were 13.4%, 9.3%, and 9.4%, respectively. On average, CCI changed by 10.7% over the past three years. Applying this average CCI change to the hypothetical deferred payment, a payment of approximately \$16.3 million (after three years) would be needed at time of CO to achieve equivalency with a payment of \$12.0 million at time of building permit issuance. CCI is the recommended escalation factor to use because it is related to the actual cost of constructing affordable housing at a future point in time.
- Time value of money—Alternatively, the City can calculate the time value of money on the potential lost interest. Utilizing the City's most recent portfolio market yield of 3.73% results in a payment of approximately \$13.4 million (after three years) to achieve equivalency with a payment of \$12.0 million at time of building permit issuance.

### **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a "license, permit, or other entitlement for use" if the official has received a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant in the proceeding within the last 12 months. A city official is similarly prohibited from accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant to any proceeding involving a

license, permit, or other entitlement for use for 12 months after a final decision is rendered in said proceeding.

Please refer to the “X” in the checklist below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

**SUBJECT TO THE LEVINE ACT**

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

**EXEMPT FROM THE LEVINE ACT**

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

For more information about the Levine Act, please see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html).

**CONCLUSION**

This project is consistent with applicable development standards (upon approval of the requested design exceptions), achieves General Plan, Housing Element, and EWPP goals by increasing market-rate and affordable housing opportunities in the City, and helps the City meet its Regional Housing Needs Allocation (RHNA) requirements. Staff recommends approval of the project subject to conditions of approval.

**ALTERNATIVES**

1. Approve the project with modified conditions of approval.
2. Refer the project back to the EPC for additional consideration.
3. Deny the project.

## **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 and interested stakeholders were notified of this meeting.

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PB-RS-AB/4/CAM  
824-12-17-24CR  
203985

- Attachments:
1. Draft Project Resolution
  2. Draft Vesting Tentative Map Resolution
  3. Project Plans
  4. [EPC Staff Report, November 20, 2024](#)
  5. Public Comments
  6. Design Exceptions Staff Analysis
  7. Jobs-Housing Linkage Plan
  8. Transportation Demand Management Plan
  9. Alternative Mitigation Proposal
  10. Alternative Mitigation Evaluation
  11. Initial Study of Environmental Significance (CEQA)