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# I. INTRODUCTION

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## A. INTRODUCTION

This Draft Environmental Impact Report (“Draft EIR”) addresses the proposed 1000 Gibraltar Drive Project (“proposed Project”). The proposed Project consists of a new 491,040-square foot tilt-up concrete creative industrial building with two supporting offices at 1000 Gibraltar Drive in the City of Milpitas, California.

The City of Milpitas Planning Department (“City”) is the lead agency under the California Environmental Quality Act (“CEQA”) (Cal. Public Resources Code, § 21000 et seq.). This Draft EIR meets legal requirements of CEQA and discloses environmental information concerning the proposed Project and invites all interested parties to comment on that information and the proposed Project. All documents referenced in this Draft EIR are available to the public upon request at the City of Milpitas Planning Department. This Draft EIR also provides state, federal, and local decision makers with detailed information concerning potential environmental impacts associated with the proposed Project and project alternatives.

## B. PURPOSE OF THE EIR

The City of Milpitas has commissioned this Draft EIR for the proposed Project for the following purposes:

- To satisfy CEQA requirements.
- To inform the general public; the local community; and responsible, trustee, and state and federal agencies of the nature of the proposed Project, their potentially significant environmental effects, feasible mitigation measures to mitigate those effects, and their reasonable and feasible alternatives.
- To enable the City to consider the environmental consequences of approving the proposed Project.
- For consideration by responsible agencies in issuing permits and approvals for the proposed Project.

As described in CEQA and the CEQA Guidelines, public agencies are charged with the duty to avoid or substantially lessen significant environmental impacts, where feasible. In discharging this duty, a public agency has an obligation to balance the project’s significant impacts on the environment with other considerations, including economic, social, technological, legal and other benefits. This Draft EIR is an informational document, the purpose of which is to identify the potentially significant impacts of the proposed Project on the environment and to indicate the manner in which those significant impacts can be avoided or significantly lessened; to identify

any significant and unavoidable adverse impacts that cannot be mitigated; and to identify reasonable and feasible alternatives to the proposed Project that would eliminate any significant adverse environmental impacts or reduce the impacts to a less-than-significant level.

The lead agency is required to consider the information in the EIR, along with any other relevant information, in making its decision on the proposed Project. Although the EIR does not determine the ultimate decision that will be made regarding implementation of the project, CEQA requires the decision-making body to consider the information in the EIR and make findings regarding each significant effect in the EIR.

This Draft EIR was prepared in accordance with Section 15151 of the CEQA Guidelines which defines the standards for EIR adequacy:

*An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed Project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR would summarize the main points of disagreement among the experts. The courts have looked not for perfection; but for adequacy, completeness, and a good faith effort at full disclosure.*

## **C. PROPOSED PROJECT**

As described in more detail in Section III (Project Description) of this Draft EIR, the proposed Project consists of a new 491,040-square foot tilt-up concrete creative industrial building with two supporting offices at 1000 Gibraltar Drive in the City of Milpitas. Approximately 486,130 square feet of warehouse and 4,910 square feet of office space is proposed. The proposed building has been designed to accommodate up to two separate tenants with proposed uses including Advanced Manufacturing, E-Commerce, Light Assembly, Warehouse/Distribution, and possibly other uses permitted within the City's Industrial (M2) zone.

## **D. EIR REVIEW PROCESS**

### **NOTICE OF PREPARATION**

Upon review of the application for the proposed Project, the City determined that the project has the potential to result in potentially significant environmental impacts and, therefore, an EIR should be prepared. In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for the Draft EIR as well as an Initial Study (Appendix A). The NOP and Initial Study were circulated on June 12, 2020 to local, state, and federal agencies, and nearby property owners within 1000 feet of the Project for a 32-day review period that ended on July 13, 2020. The NOP provided a general description of the proposed project

and a list of probable environmental effects associated with construction and operation of the proposed project. An EIR scoping meeting was also held on June 25, 2020 for the proposed Project. The NOP and scoping meeting process solicited comments from identified responsible and trustee agencies, as well as interested parties regarding the scope of the Draft EIR. Comments received in response to the NOP and comments received at the scoping meeting are included in Appendix B.

### **ENVIRONMENTAL ISSUES TO BE ANALYZED IN THE DRAFT EIR**

Pursuant to Section 15063(a) of the CEQA Guidelines, the City prepared an Initial Study for the proposed Project to determine which environmental topics should be analyzed in the EIR (Appendix A). Based on the Initial Study the following environmental impact topics are analyzed in detail in the Draft EIR:

- Air Quality
- Noise
- Greenhouse Gas Emissions
- Transportation

Refer to Section IV.A (Impacts Found to be Less Than Significant) and the Initial Study (Appendix A) for a discussion of why other environmental impact topics are not analyzed in detail in the Draft EIR.

### **DRAFT EIR PUBLIC REVIEW PROCESS**

This Draft EIR will be circulated for review by the public and other interested parties, agencies, and organizations for a minimum of 45 days. Comments of the adequacy of the Draft EIR will be accepted during this review period. All comments or questions about the Draft EIR should be addressed to:

City of Milpitas Planning Department  
Attn: Rozalynne Thompson, Senior Planner  
455 East Calaveras Boulevard  
Milpitas, CA 95035-5411  
rthompson@ci.milpitas.ca.gov  
(408) 586-3278

### **FINAL EIR AND PROJECT APPROVALS**

Following the close of the public and agency comment period, responses to all substantive comments on the adequacy of the Draft EIR will be prepared for publication in the Final EIR. The Final EIR will be prepared as a separate document from the Draft EIR and will be considered by the City Planning Commission in a public hearing. The Final EIR will be available

for public review prior to the Planning Commission's consideration of certifying the Final EIR and approving the proposed Project.

Section 15204(a) (Focus of Review) of the CEQA Guidelines helps the public and agencies to focus their review of environmental documents and their comments to lead agencies. Case law has held that the lead agency is not obligated to undertake every suggestion given to them, provided that the agency responds to significant environmental issues and makes a good faith effort at disclosure. Section 15204.5(a) of the CEQA Guidelines clarifies this for reviewers by stating:

*In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.*

This guideline encourages reviewers to examine the sufficiency of the environmental document, particularly regarding significant effects, and to suggest specific mitigation measures and project alternatives. Given that an effect is not considered significant in the absence of substantial evidence, Section 15204(c) of the CEQA Guidelines advises reviewers that comments should be accompanied by factual support. Section 15204(c) states:

*Reviewers should explain the basis for their comments, and, should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.*

## **CEQA FINDINGS AND MITIGATION MONITORING**

CEQA and the CEQA Guidelines require lead agencies to “adopt a reporting and mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment” (CEQA Guidelines Article 7, Sections 15091(d) and 15097). Proposed mitigation measures have been

identified in the Draft EIR, presented in language that will facilitate establishment of a monitoring program. The monitoring program must be designed to ensure compliance during project implementation. The Mitigation Monitoring and Reporting Program (MMRP) for the Project will be prepared as part of the Final EIR.

## **E. LEVELS OF SIGNIFICANCE**

This Draft EIR uses a variety of terms to describe the levels of significance of adverse impacts identified during the course of the environmental analysis. The following are definitions of terms that may be used in this Draft EIR:

- **Less-than-significant impact:** Impacts that are adverse, but that do not exceed the specified standards of significance.
- **Significant impact:** Impacts that exceed the defined standards of significance and that can be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures.
- **Significant and unavoidable impact:** Impacts that exceed the defined standards of significance and cannot be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures.

## **F. ORGANIZATION OF THE DRAFT EIR**

This Draft EIR is organized into eight sections as follows:

Section I (Introduction): This section provides an introduction and a description of the purpose of the EIR, the proposed Project, the EIR review process, levels of impact significance, and the organization of the Draft EIR.

Section II (Executive Summary): This section provides a summary of the project description, areas of known controversy, issues to be resolved, environmental impacts that would result from implementation of the proposed Project, proposed mitigation measures, and the level of significance of the impact before and after mitigation.

Section III (Project Description): An overview of the study area's environmental setting is provided including a description of existing and surrounding land uses and cumulative buildout projections in the City. This section also includes a complete description of the proposed Project including project location, project characteristics, project objectives, and required discretionary actions and other agency approvals.

Section IV (Environmental Impact Analysis): The Environmental Impact Analysis section is the primary focus of this Draft EIR. Each environmental issue contains a discussion of existing

conditions for the project site, an assessment and discussion of the significance of impacts associated with the proposed Project, cumulative impacts, mitigation measures, and the level of impact significance after mitigation. A discussion of Impacts Found to be Less than Significant is also provided in this section.

Section V (General Impact Categories): This section provides a summary of any significant and unavoidable impacts associated with the proposed Project, a discussion of the potential growth inducement of the proposed Project, and a discussion of potential significant irreversible environmental changes associated with the proposed Project.

Section VI (Alternatives to the Proposed Project): This section includes an analysis of a reasonable range of alternatives to the proposed Project. The range of alternatives selected is based on their ability to feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any of the significant effects of the project.

Section VII (References): All of the sources of information used in the preparation of the Draft EIR are listed in this section.

Section VIII (List of Preparers of the EIR and Persons Consulted): This section presents a list of lead agency, applicant, other agencies, and consultant team members that contributed to the preparation of the Draft EIR. This section also identifies persons consulted during the preparation of the Draft EIR.