

## **EXHIBIT 2**

### **CEQA EXEMPTION MEMORANDUM**

# MEMORANDUM

## Planning Department

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**To:** Ned Thomas, AICP, Planning Director, City of Milpitas

**From:** Kristina Phung, Associate Planner, City of Milpitas

**Subject:** 612 South Main Street Project Categorical Exemption

**Date:** February 14, 2023

This memorandum supports the finding that the proposed project at 612 South Main Street "Project" would be exempt from further review pursuant to California Environmental Quality Act (CEQA) Section 15332 (In-Fill Development Projects). The Project site located at 612 South Main Street is a combination of two adjacent parcels: 600 South Main Street (APN 086-25-028) and 612-650 South Main Street (APN 086-25-027) in the City of Milpitas, Santa Clara County. The proposed Project is described in the attached staff report. All supporting technical studies referenced herein are included as Exhibit 3.

### **Class 32 Infill Exemption, Per CEQA Guidelines Section 15332**

Article 19 of the California Environmental Quality Act (CEQA Guidelines Section 15300 to Section 15333) includes a list of classes of projects that have been determined to not have a significant effect on the environment and as a result, are exempt from review under CEQA. Among the classes of projects that are exempt from CEQA review are those projects that are specifically identified as urban in-fill development. CEQA Guidelines Section 15332 (Class 32) consists of projects characterized as in-fill development when meeting the following conditions:

- (a) The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; and
- (b) The proposed Project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; and
- (c) The Project site has no value as habitat for endangered, rare or threatened species; and
- (d) Approval of the proposed Project would not result in any significant effects relating to traffic, noise, air quality or water quality, and
- (e) The site can be adequately served by all required utilities and public services.

The analysis presented in the following section provides substantial evidence that the proposed Project qualifies for an exemption under CEQA Guidelines Section 15332 as a Class 32 urban in-fill development, and would not have a significant effect on the environment. Section 15183(a) of the California Environmental Quality Act (CEQA)



Guidelines states that "...projects which are consistent with the development density established by the existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as may be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."

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### Section 15332 (a): General Plan & Zoning Consistency

Yes	No	The Project is consistent with the applicable General Plan designation and all applicable planning policies and is consistent with the applicable zoning designation and regulations.
X		

As described in the staff report and in Table 1 of Exhibit A, the Project is consistent with the Milpitas 2040 General Plan and policies and meets the majority of the Mixed Use (MXD) zoning designation and regulations under the Midtown Specific Plan. The Project was submitted under SB 330 (Housing Crisis Act of 2019) and as the Project is restricting the sale of more than 10 percent of the housing units to moderate-income residents, the Project qualifies for concessions, waivers, and parking reductions under the mandated State Density Bonus Law. Therefore, the City must grant the requested Project waivers to the front and rear yard setback development standards and allow for parking reductions if those development standards would physically preclude the development from construction and do not cause a public health or safety problem.

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### Section 15332 (b): Project Location, Size, and Context

Yes	No	The proposed Project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
X		

The Project is on a site less than five acres at approximately 2.35-acres and is entirely surrounded by urban uses with existing developed lots including a car wash, assembly place, self-storage business, commercial shopping plaza, streets, landscaping, and associated existing infrastructure and utilities.

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### Section 15332 (c): Endangered, Rare or Threatened Species

Yes	No	The Project site has no value as habitat for endangered, rare or threatened species.
X		

The Project site includes one lot that is vacant and undeveloped and one paved lot with an existing two-story commercial and office building located within a developed urban area. The Project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species as documented by the Biological Constraints Analysis for the 612-630 South Main Street Project prepared by FirstCarbon Solutions dated May 20, 2022. The Project will remove 13 Ordinance-sized trees and will be subject to all bird nesting mitigation measures within the adopted Midtown Specific Plan EIR, as included in the Conditions of Approval. Thus, the Project site has no value as habitat for rare, threatened, or endangered species.

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### Section 15332 (d): Traffic, Noise, Air Quality, or Water Quality

Yes	No	Approval of the proposed Project would not result in any significant effects related to traffic, noise, air quality or water quality.
X		

**Traffic:** The proposed Project will result in an increase of 57 units which will have a negligible effect on traffic based on the International Traffic Engineers (ITE) estimates for the Project and credit for the existing school/day care use and gymnastics center use, since the Project would result in a decrease in traffic impacts (changing from commercial and office to residential). As demonstrated by the Trip Generation Study for the Project prepared by TJKM dated April 2, 2022, the proposed Project would not generate any new trips during the daily, a.m. peak hour trips or p.m. peak hour trips and the total net daily trips would be reduced by 115 from its existing condition.

**Noise:** As substantiated by the Noise Impacts Constraints Analysis for the Project prepared by FirstCarbon Solutions dated May 17, 2022, the introduction of 57 new housing units on the Project site would not result in significant noise impacts upon adjacent uses, because noise emanating from the proposed residences would be typical of the neighborhood and would not result in a significant change or increase in the existing noise environment. The Project will be required to comply with Section 1207 of the California Building Code which requires that the interior noise levels of multi-family units have an interior noise levels of 45 dB DNL or lower. The Project would also have to comply with the City's noise ordinance per Milpitas Municipal Code Chapter V-213-3, restricting construction noise to 7:00 a.m. to 7:00 p.m. on weekday sand weekends and shall be prohibited on federal holidays.

**Air Quality:** The impact of dust and exhaust generated by grading and excavation of future construction activities is temporary in nature and limited to site preparation and future construction of the new townhomes. The Applicant provided the Air Quality and Greenhouse Gas Emissions Constraints Analysis for the Project prepared by FirstCarbon Solutions dated May 27, 2022, that confirmed the Project will not conflict with the 2017 Clean Air Plan by the Bay Area Air Quality Management District (BAAQMD) and the proposed residential land use is below BAAQMD's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis and would not introduce a new source of odors. Furthermore, the Midtown Specific Plan EIR identified air quality mitigation measures that have been incorporated into the Conditions of Approval the Project must adhere to. As such, the Project would not result in any significant effects related to air quality.

**Water Quality:** The Project will not violate water quality standards or waste discharge requirements because it will be required to comply with the standard Best Management Practices per the C.3 Stormwater Handbook by the Santa Clara Valley Urban Runoff Pollution Prevention Program which regulates discharge into the City's storm drainage system; and the increase in runoff would not be large enough to cause flooding on- or off-site. All projects of this nature are required to comply with these standards and will be reviewed for compliance by the City's Engineering Department during the building permit review process. Furthermore, the Applicant prepared a Preliminary Stormwater Quality Control Plan dated June 2022 by consultants MacKay & Soms for the Project.

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#### **Section 15332 (e): Utilities and Public Services**

Yes	No	The site can be adequately served by all required utilities and public services.
X		

The Project site is located in an area surrounded completely by existing development and infrastructure and has been reviewed by all major reviewing Departments including but not limited to Building, Fire, Police, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that the site can be adequately serviced to preserve public health, safety, and wellness. The Applicant has also agreed to a number of onsite utility improvements as included in the Conditions of Approval.