

APPROVED
MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

MEETING MINUTES
Wednesday, October 23, 2013

- I. PLEDGE OF ALLEGIANCE** **Chair Mandal** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/ SEATING OF ALTERNATE** **Commissioners**
Present: Chair Sudhir Mandal, Commissioners Rajeev Madnawat, John Luk, Zeya Mohsin and Garry Barbadillo
Absent: Vice Chair Larry Ciardella, and Commissioner Gurdev Sandhu
Alternate Member: Demetress Morris
Staff: Steve McHarris, Scott Ruhland, Cindy Hom, Tiffany Brown, Felix Reliford, Johnny Phan and Rachelle Currie
Alternate Member Morris was seated for voting, due to two regular voting Commissioners' absence.
- III. PUBLIC FORUM** **Chair Mandal** invited members of the audience to address the Commission for three minutes or less.
Peter Grispa, of Montecito Way, spoke about the proposed Waterstone Project and Chair Mandal suggested for him to speak about it during the Public Hearing Item No. 4 discussion.
Samantha Beard, 600 South Abel Street, Chair of Community Advisory Commission, invited everyone to attend CAC's "Make A Difference Day" Event scheduled on October 26, 2013 at the Seasons Marketplace on Landess Avenue.
- IV. APPROVAL OF MEETING MINUTES** **Chair Mandal** called for approval of the September 25, 2013 meeting minutes of the Planning Commission.
No changes to the meeting minutes as written were requested.
Motion to approve Planning Commission meeting minutes of September 25, 2013 as submitted
Motion/Second: Commissioners Luk / Madnawat
AYES: 6
NOES: 0
ABSENT: 2 Vice Chair Ciardella, Commissioner Sandhu
- V. ANNOUNCEMENTS** Planning Director Steve McHarris announced that this Saturday, October 26, there is a scheduled Planning Commission Workshop at 11:30 am in the City Hall Committee

Conference Room; the workshop is regarding land use and design alternatives and visioning with Cal Poly Urban Regional Planning Design students' and staff regarding the California Circle area and a portion of the Midtown Specific Area.

Chair Mandal inquired staff about the Wednesday meeting before the Thanksgiving Thursday. Planning Director McHarris replied that historically the Commission has not held a Wednesday meeting before Thanksgiving Thursday, and it is up to the current Commission to decide what they want to do for this year's meeting.

VI. CONFLICT OF INTEREST

Assistant City Attorney Johnny Phan asked if any Commissioners had any personal or financial conflict of interest related to any of the items on the agenda.

No member identified any conflict of interest.

VII. APPROVAL OF AGENDA

Chair Mandal asked whether staff or the Commission had any changes to the agenda. Staff had no changes. Commissioner Madnawat would like a clarification from staff in regards to Item No. IX-1 line 4 "...range from 0-40 housing..." when everywhere else in the packet it's stated 1-40 range. Planning Director McHarris replied that it is a range from 1-40 dwelling units/acre.

Motion to approve the October 23, 2013 agenda as amended by staff's clarification for Item No. IX-1 line 4

Motion/Second: Commissioner Madnawat / Commissioner Mohsin

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

VIII. CONSENT CALENDAR

CONDITIONAL USE PERMIT NO. UP13-0018: request to operate a testing, and assembly processing business within an existing tenant space at 1677 South Main Street (APN: 86-21-073) zoned General Commercial with Site and Architectural Review Overlay (C2-S) located within the Midtown Specific Plan.

Motion: adopt Resolution 13-029 approving Conditional Use Permit No. UP13-0018 subject to conditions of approval

Chair Mandal asked if anyone would like to speak about the consent calendar item. No one expressed a desire to speak on this item.

Motion to approve the consent calendar as submitted

Motion/Second: Commissioner Madnawat / Commissioner Luk

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

IX. PUBLIC HEARINGS

IX-1 GENERAL PLAN AND ZONING TEXT AMENDMENT NO. GP13-0004, & ZA13-0005: a request for a General Plan and Zoning text amendment to the Town Center land use and zoning district development standards to adjust the allowable residential density range from 1-40 housing units per gross acre to 21-40 housing units per gross acre; a Negative Declaration was prepared for this project.

Planning Director McHarris introduced new Senior Planner Scott Ruhland. Senior Planner Ruhland informed the Commission that the purpose of this text amendment is to limit additional single family residential uses in the Town Center area where a proliferation of such uses are really not appropriate for the intent and function of a Town Center.

Mr. Ruhland also clarified that it is a State requirement to be consistent on Land Use and Zoning documents that is why amendments are being proposed to both General Plan and Zoning Text tonight.

Commissioner Madnawat referred to the EIR prepared and certified by Senior Planner Ruhland and asked about not finding any negative impacts due to the increase in density like for example green house gas emission impact, noise, more traffic. Mr. Ruhland replied that there is no proposed increase in density, only limiting the lower density range.

Commissioner Madnawat asked if the existing homeowners would be grandfathered in after this amendment passes if they decide to demolish their existing homes. Mr. Ruhland said that existing single family units would be grandfathered.

Chair Mandal asked if there are any projects inline at the Town Center area that are going to be impacted. No projects are in line; so this administrative amendment would only impact future development proposals.

Commissioner Mohsin inquired about the transportation/traffic factor on page 31 of the EIR as to how to address the issue specifically the pedestrian/bicycle path impact as well as mass transit; are they going to widen the area of the plaza going out to Hillview Drive and other areas? Senior Planner Ruhland replied that it would be addressed based on the development proposal during the review process of the project and the City would want them to connect to the City's bike trail system with pedestrian connection to the streets. Commissioner Mohsin asked if those will be required of the development proposal and Mr. Ruhland said yes.

Alternate Member Morris asked what the financial gain would be for this amendment. Mr. Ruhland replied that it would allow the City to use the land more efficiently because the intended use of a town center is for office and commercial so the land use would generate tax revenue.

Commissioner Barbadillo asked staff's motivation in recommending the general plan and zoning text amendments to be approved. Mr. Ruhland replied that the proposed amendments are to correct inconsistencies the Town Center use for future developments to allow the maximum land use to be tax and mixed-use. It is also to encourage the Town Center to be a more compact urban form encouraging tax-generating uses and create a mix-use district area compared to a single-family residential neighborhood.

Commissioner Barbadillo asked why staff is requesting this amendment now. Planning Director answered that it is because the economy has changed and that the small lot

Planning Commission Minutes

October 23, 2013

single family detached homes are highly profitable to the development community. It is staff's opinion that additional single-family residential does not meet the vision for the Town Center's flourish to be more mix-use.

Commissioner Mohsin asked about the City's vision of the mix-use complex. Director McHarris responded there is no project before the Commission tonight but in a future development project in the town center, there could be a mix of commercial and residential either above the commercial (vertical) or possibly horizontal where stand-alone commercial buildings are integrated with residential in close proximity into what we also refer to as "mixed-use".

Commissioner Luk commented that the whole intent of this revision is to allow mixed-use urban environment for this important corridor in Milpitas with its close proximity to Calaveras and Interstate 680. He believes that a higher minimum density makes sense and the proposed town center designation amendment would be a good urban element for the City's commercial component that we lack.

Chair Mandal opened the public hearing for comments and heard none.

Motion: to close the public hearing after hearing no comments.

Motion/Second: Commissioner Mohsin / Alternate Member Morris

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Chair Mandal asked for any other clarification questions from the Commissioners. Commissioner Madnawat asked about the California Public Utilities Commission letter. Principal Housing Planner Felix Reliford replied that it is related to the next public hearing agenda item.

Motion: to adopt Resolution No. 13-028 recommending the City Council adopt General Plan Amendment No. GP13-0004 and Zoning Amendment No ZA13-0005 to adjust the allowable residential density range from 1-40 housing units per gross acre to 21-40 housing units per gross acre for the Town Center Zoning District.

Motion/Second: Alternate Member Morris / Commissioner Mohsin

AYES: 4 Chair Mandal, Commissioners Mohsin and Luk and Alternate Member Morris

NOES: 2 Commissioners Madnawat / Commissioner Barbadillo

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Commissioner Madnawat commented that Town Center is the heart of the City and opposed to having developer come in and put condominiums instead of mixed commercial/residential properties in this particular zoned district that's why he is opposed to the motion.

Planning Commission Minutes

October 23, 2013

IX-2 ZONING TEXT AMENDMENT NO. ZA13-0004: request to amend the City's Zoning Code to add provision regarding "emergency shelters," "single room occupancies," "supportive housing," "transitional housing," and reasonable accommodations to be consistent with California Law. Definitional entries, and operational and development standards are proposed. Other ancillary amendments re necessary to implement the changes are proposed; and a Negative Declaration for the project proposed.

Principal Housing Planner Felix Reliford explained that what's before the commission is a series of zoning ordinance amendments to comply with the State's statutory requirements pertaining to Milpitas Housing Element and also in regards to recertification that would be taking place next year.

Mr. Reliford gave an overview and brief background of the Housing Element and its requirements. He informed them that the Housing Element has to be adopted by the City Council and certified by the State. He is scheduled to bring the fourth Housing Element's adoption next year to the City Council.

To be eligible, cities must comply with State Law relating to emergency shelters, transitional and supportive housing, and reasonable accommodations. Mr. Reliford would like to note for the Commissioners that staff is recommending excluding SRO (single room occupancies) for the MXD zoning districts that is different to what is submitted in the Commission's packet. The reason being is that the City has sufficient zoning districts to allow those types of uses within the City that would meet the statutory requirement of the State. He then turned the presentation over to the City's consultant Ben Noble of the Planning Center.

Mr. Noble reviewed the statutory requirements and concept clarifications for the Commission. He reiterated that there are three specific land uses that these amendments are being addressed. They are: a) emergency shelters; b) transitional and supportive housing; and c) single room occupancies.

Mr. Noble started with emergency shelters by stating that they are defined as housing with minimal support services for homeless individuals and families that have limited occupancy period of 6 months or less. No individual or household may be denied emergency shelter because of an inability to pay.

He then moved to define Transitional Housing as temporary housing intended to move residents to permanent housing for up to two years and be self-sufficient. An important feature of this type of housing is the availability of supportive services to ease transition for self-sufficiency. This type of housing often provide for emancipated foster youth, veterans, former homeless individuals and families, and individuals moving forward after mental or substance abuse treatment.

Supportive Housing is permanent housing enabling residents to maintain stable housing and lead fuller lives. This type of housing is available to individuals and families with disabilities, chronic physical and mental illness, chronic homelessness and substance abuse problems. Services to these individuals and families may be provided on-site or through home visits scattered-site homes.

The final land use type being addressed in these amendments is the Single-Room Occupancies. These are multi-tenant buildings that house 1-2 people in a room and often have shared bathrooms and kitchens and are rented either weekly or monthly. These are very small units (generally less than 350 square feet) and are affordable to

Planning Commission Minutes

October 23, 2013

extremely low income households.

Mr. Noble briefly reviewed the proposed amendments that are mandated primarily by State law, the legislature decided to pre-empt local governments' land use authority for the mentioned types of land uses so the ability of local governments to make their own decisions for this land use authority is limited by State law.

The amendment for emergency shelters for consideration at tonight's meeting is to allow by right emergency shelters in the Commercial/Highway Services if they meet Special Use standards. The proposed amendment for the Transitional and Supportive Housing is to allow by right this type of housing in the residential zoning districts and mixed-use zoning districts and must be treated the same as other residential uses of the same type. The Single-Room Occupancy amendments being considered tonight is to allow Conditional Use Permit in the R3, R4, R5, Highway Services, and Mixed-Use (MXD, MXD2, MXD3) zoning districts and to require compliance with basic standards of location, size, and amenities. Finally, Reasonable Accommodations amendments relate to both State and Federal Laws that says jurisdiction needs to accommodate a persons with disabilities to make sure that they are able to live in housing just like for people who do not have disabilities. This establishes clarity on procedure by which the City can approve aviation from development standards in order to accommodate persons with disabilities; an example is to allow setback for wheelchair accommodations.

Commissioner Morris asked Mr. Reliford to clarify exclusion of SROs if it is by government standards. Mr. Reliford replied that with the discretion of the City, State does not require statutory requirements for SROs and that any deviations from standards we need Conditional Use Permit.

Commissioner Madnawat raised a question about the PUC letter and for staff to inform the Commission what PUC wants. Mr. Reliford responded that this is a comment from Public Utility Commission when the City sent out the Negative Declaration and mainly stating that any future projects before the Planning Commission and City Council PUC wants to make sure that any safety issues of highway-rail crossings or facilities that they regulate that the City has development status to address those safety issues for any land uses being proposed near their facilities. Commissioner Madnawat's concern is that the project will take longer if we have to get PUC's approval. Mr. Reliford clarified that that is not the case; it is mainly to address the safety issues.

Commissioner Madnawat queried about the meaning of the underlined text on page 3 of the resolution in regards to emergency shelters. He read the one line he had a question of: "No individual or household may be denied of emergency shelter because of inability to pay as set forth in the house code." Mr. Noble replied that it means emergency shelters can not charge a fee for a person to stay. Commissioner Madnawat asked if there are any emergency shelters in the City of Milpitas. Mr. Reliford replied that there are neither emergency shelters within the City nor any applications for emergency shelters; there are only two emergency shelters: one in Sunnyvale (that is ready to close) and another one in Gilroy. Commissioner Madnawat asked what area are we designating emergency shelters. Mr. Reliford replied that the areas need to have access to highway services, transportation, goods, and so forth. Staff has identified two sites within a vacant industrial area where this type of land use could potentially be located by the railroad and south of Fremont. The Commission has to zone it to allow this land use.

Commissioner Barbadillo asked if the proposal is to make amendments to the provisions of the ordinance to be State-compliant; Principal Housing Planner Reliford answered

Planning Commission Minutes

October 23, 2013

yes. Commissioner Barbadillo asked if the City presently is not compliant with the State law. Mr. Reliford replied that his statement is correct; staff originally thought that the City has until January 1 to comply with Sate law however after contacting the section head of HCD, who reviews the Housing Element, as long as the City complies before the Housing Element is certified next year.

Chair Mandal would like to understand if R3, R4, R5 designation is only for the Transitional and Supportive Housing. Mr. Reliford said no in regards to this type of land use. R3, R4, R5 districts are for SROs; rationale behind these zoning districts is those are multi-family housing districts not single-family housing districts. Would MXD apply to Town Center and Transit Area? Mr. Reliford replied it will not apply to Town Center.

Chair Mandal opened the public hearing for comments and heard none.

Motion: to close the public hearing after hearing no comments.

Motion/Second: Commissioner Madnawat / Commissioner Mohsin

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Chair Mandal asked fellow Commissioners for any discussion. Commissioner Madnawat commented that this is something required by State law; however, he understands that it does not mean the City needs to provide services that is just zoning amendments being considered here. State is not forcing the City to provide services.

Motion: to adopt Resolution No, 13-023 recommending the City Council adopts an ordinance amending the zoning code to include provision relating to emergency shelters, single room occupancy (excluding from Mixed Use district) residences, supporting housing, transitional housing, ad reasonable accommodation based on the findings set as amended by excluding SROs from Mixed-Used district and adopt a Negative Declaration for the project.

Motion/Second: Commissioner Madnawat / Commissioner Luk

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Chair Mandal inquired of staff how far the City has met the State requirements in 2010. Mr. Reliford required that we have met all the requirements besides the items that are being proposed right now.

IX-3 DEVELOPMENT AGREEMENT NO, DA13-0001: request for a Disposition and Development Agreement between the Milpitas Housing Authority and South Main Senior Lifestyles LLC, involving the purchase of 5.94 acres and the development of up to 389 housing units (Senior Congregate Care and Independent Living), located at 1504-1620 South Main Street (APNs: 86-22-027, -028, -033, -041, and -042) zoned multi-

Planning Commission Minutes

October 23, 2013

family residential, very high density with site and architectural overlay (R4-S).

Principal Housing Planner gave an overview of the project to the Commission stating that the site is owned by Milpitas Housing Authority and pursuant to the Department of Finance, the MHA funds and site must be used for housing with affordable units . It is a conformance of finding with the Milpitas General Plan and Milpitas Specific Plan. What Sate law requires is that before the disbursement of the property, the Planning Commission has to make a finding that the proposed project is consistent with the City's General Plan and Midtown Specific Plan. The developers are proposing a senior housing project to be located at 1504-1620 South Main Street.

Mr. Reliford continued presenting conceptually the new project being proposed by the developers which is a continuum of care retirement community. This is a full service community with activity and amenity-enriched where one can age in place. Mr. Reliford reminded everyone that the City has 2 existing Senior Housing projects namely Terrace Garden built in 1988 and the other one is the DeVries Place across the Milpitas Library built in 2009. Both current senior housing projects will not have the same amenities Senior Lifestyles is proposing; and the City of Milpitas will be the first City in the South Bay to potentially have this type of project.

He went on reviewing the conceptual project description in order for the Commission to make a finding. The Integrated Retirement Community would consist of 389 apartment homes; all residents 62 years of age and older; would be a two-phase development; complementary and cohesive design with integrated management and operations.

Phase 1 is a congregate care and assisted living that would consist of 199 spacious apartment homes with 24-hour staffing, daily check-in, emergency response services, and a secure building with a subterranean parking. Phase 2 of the project will consist of active, independent living with 190 spacious apartment homes. These units will have full high-end amenities and features; will have expansive common areas to promote interaction; Phase 1 units will have first priority.

Mr. Reliford enumerated the benefits to the City to have this type of project and that include a unique landmark asset; property, sales, and special taxes annually; \$2.5 million worth of public infrastructure; jobs and economic development; there will be 48 very low income (50% AMI) housing units and first preference to Milpitas seniors; and \$7.7 million DDA grant will be eliminated.

Staff is recommending that the Commission finds the project to be consistent with the General Plan Policy Number 2.a-I-12: Encourage variety/mix in housing; Policy Number 2.a-G-3: Provide variety of housing types/densities; and Policy Number C-G-3: Support diversity and creativity. As to the Midtown Specific Plan, staff is also recommending that the Commission finds the project meeting the Midtown Specific Plan Policy Number 3.5: Provide housing for all income levels throughout Midtown area; Policy Number 3.6: Provide affordable housing in new developments. Set affordable requirement on project-specific basis; and Policy Number 3.7: Architecturally integrate affordable with market rate units. At this time, no environmental review is required and staff recommends that this project is consistent with the zoning and CEQA requirements.

Commissioner Morris commented this sounds like an innovative project; her only question is in regards to with fire and police service demand, would this provide for increased police and fire services or would this keep them at status quo. Mr. Reliford responded that the developer would pay a Community Facilities District fee that allows

Planning Commission Minutes

October 23, 2013

for potential expansion of police and fire services. Planning Director clarified that Community Facilities District CFD-2005 fees are used only for landscape and park maintenance and not for police and fire services.

Commission Madnawat asked what AMI stands for and how much would a unit cost for this project. Principal Housing Planner Reliford said that this project would have 48 units that are substantially 50% less than the market rate. Commissioner Madnawat would like to confirm with staff that this is not a request to approve a project; and staff replied that is correct. This public hearing item is only for the Commission to make a finding that the project conforms to the consistency within the General Plan and Midtown Specific Plan policies. The purpose of clarification is Commissioner Madnawat has a parking issue questions but those questions are premature since the Commission is not considering a development project. Staff informed the Commission that City received a comment letter from PUC and a resident but those comments would be addressed if/when a project application is proposed to the City.

Chair Mandal asked staff to bring up the findings on the screen so the Commissioners could see them again. Commissioner Madnawat asked if this would be categorized as a housing or commercial project, staff replied housing project. Chair Mandal asked about timeline of the project for it sounds like an exciting program. Mr. Reliford deferred the question to the developers and simply stated that the Disposition and Development Agreement would have the performance and milestones that the developer would have to meet.

Commissioner Barbadillo stated this is a good program catered to seniors that is needed in our City. His question is, was there any data back in 2008 to support the market for senior housing market. Mr. Reliford said there is; and an analysis has been done in regards to the market needs.

Commissioner Luk opined that this is more applicable to seniors and a visionary project given the location of this project the developers are putting the location into good use and providing for the needs of seniors.

Commissioner Madnawat asked how they came up with the number 48 for affordable units and asked if all the units are for sale. Staff replied these are rental units and the affordability of these units is sanctioned by the Regulatory Agreement between the Milpitas Housing Authority and the developers for 45 years. Commissioner Madnawat asked if there will be audits; staff answered yes. Commissioner Madnawat asked if the developers have any other projects like this. Mr. Reliford responded yes, and it is located in Livermore. At this point he asked the developers to come up to the podium.

Joseph Callahan and Terry Freeman representing South Main Senior Lifestyles LLC addressed the Commission. Mr. Callahan informed the Commission that the first phase of their Livermore Senior Housing project opened in 2004, while the second phase opened its doors in 2007. Commissioner Madnawat asked if there has been any complaint from the facility renters like abuse of taking advantage of seniors. Mr. Callahan said they have regular reports into the City of Livermore for their project per their Regulatory Agreement and in almost 10 years of operation there have not been any reports of abuse.

Commissioner Madnawat commented that at least this project for two reasons; first we need good projects like this on our dilapidated street and second, will not have school impact since the residents would be seniors. Mr. Joe Callahan is looking forward to bringing a unique project to the City of Milpitas.

Planning Commission Minutes

October 23, 2013

Chair Mandal opened the public hearing for comments and heard none.

Motion: to close the public hearing after hearing no comments.

Motion/Second: Commissioner Madnawat / Commissioner Luk

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Motion: to adopt Resolution No. 13-027 finding that the disposition of rental housing units are in conformance with the General Plan and Midtown Specific Plan.

Motion/Second: Commissioner Madnawat / Commissioner Luk

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

IX-4 GENERAL PLAN AMENDMENT NO. GP12-0003, ZONING AMENDMENT NO. ZA12-0004, SITE DEVELOPMENT PERMIT NO. SD12-0002, PLANNED UNIT DEVELOPMENT NO. PD12-0001, MAJOR VESTING TENTATIVE MAP NO. TM12-0001 AND ENVIRONMENTAL ASSESSMENT NO. EA13-0003: request to (i) change the General Plan and Zoning Land Use designations from Industrial Park to Residential for subdivision and construction of an 84 single-family detached residential development on 10.7 acres; (ii) construct a Penitencia Creek pedestrian bridge; and (iii) General Plan and Zoning Land Use Designations on six other parcels from Industrial Park to General Commercial and Residential for 18.5 acres of developed property. The project includes an Environmental Impact Report.

Planning Director McHarris presented the Waterstone Development. Director McHarris gave an overview to the Commission; he stated that the project has 2 components – Land Use Conversion and Single-Family Residential Subdivision.

In the Land Use Conversion, the Commission is presented with a General Plan Amendment and Zoning Amendment request; while in the Single-Family Residential Subdivision the focus of the request is for a Site Development Permit, a Planned Unit Development Permit, and a Vesting Tentative Map. He then reviewed the details of each component.

In the Land Use Conversion component, the developers are asking for 2 land use conversions: a) to change the General Plan Land Use and Zoning designations on 2 parcels from Industrial Park to Residential on 10.7 acres; b) to change General Plan Land Use and Zoning designations on 5 parcels from Industrial Park to General Commercial and 1 parcel from Industrial to Residential on 18.5 acres.

While on the Single-Family Residential Subdivision proposal, developers are requesting: 1) Site Development Permit for 84 detached single family homes, site improvements, and pedestrian bridge; 2) Planned Unit Development Permit for required

Planning Commission Minutes

October 23, 2013

deviations from development standards like lot area, setbacks, and height; and 3) Vesting Tentative Map for the creation of the 84 residential lots and common area for this project.

The project location is commonly-known as the California Circle area; its surrounding land uses are – the Penitencia Creek on the North, Industrial along Fairview Way and Cadillac Court on the South, Penitencia Creek Open Space on the East, and the Interstate 880 and Commercial, Industrial, and Marriott Residence Inn Hotel on the West. Mr. McHarris mentioned that the existing land use designation within California Circle is Industrial Park and the proposal is to change some of these land uses to Residential to support the proposed single-family residential subdivision.

Director McHarris reviewed the project background. There was multiple inquiries regards conversion of Industrial to Residential land use at California Circle during the 2007-2009 financial crisis leading the nation into the “Great Recession”. In November of 2011, Trumark Development submitted a pre-application inquiry for residential development. In February 2012, there was a Citywide Industrial Land Use Conversion Moratorium based on those types of conversion inquiries. At that time, City Council discussion included having the City evaluate other land uses including residential at California Circle area; there was no evaluation of California Circle area at that time and no City Council regarding the on Trumark application. In May 2012, Trumark Development application was received and the City’s processing and Environmental CEQA review began. In August of 2012, the moratorium ended along with City Council adoption of General Plan Policies restricting Industrial/Commercial Land Use Conversion. Staff requested in October 2012 supporting information for a code-required “public benefit” amenity associated with the proposed planned development and in this case the “public benefit” amenity is the pedestrian bridge. There was not enough information for staff to determine if the pedestrian bridge was viable, including the location of the bridge. In December 2012, the project was on hold due to lack of information from the applicant.

In May 2013, staff communicated to the developer lack of support based on General Plan and Zoning inconsistencies, and a need to comprehensively study the California Circle, Fairview Way, Cadillac Court area for potential land use change. In June 2013, Planning Commission held a Study Session on the California Circle area; in that session, Commissioners reviewed land use, opportunities, and constraints then directed staff to proceed with vision planning for this area. Project processing continued at Trumark’s request; Draft EIR was released on June 21, 2013 and the Final EIR was made available on September 27, 2013 for public.

Director McHarris reviewed the City’s discretion on Legislative Acts which are General Plan Amendments and Zoning Amendments. He stated that the City is granted broad discretion by State Statute and California Constitution meaning that the Planning Commission and City Council have the discretion on any General Plan amendments, and applications for Legislative Acts are not subject to the Permit Streamlining Act.

Mr. McHarris informed the Commission that the project is inconsistent with several General Plan Land Use Policies, Numbers 2.a-G-8: the City should consider a long term approach to managing its income/job generating lands in terms of economic development and the impacts of lower density residential development on public services; 2.a-G-9: the City should make land use decisions that improve the City’s fiscal condition; 2.a-G-10: consider long-term planning and strong land use policy in managing the City’s fiscal position; and 2.a-G-11: promote land use policy and implementation actions that improve the City’s fiscal sustainability.

Planning Commission Minutes

October 23, 2013

Staff's recommendation of project denial is consistent with the stated policies for several reasons. Those reasons are: a) Policy directs an adequate supply of industrial lands. Only consider land use conversion when contemplating substantial economic benefit; b) Even more importantly is the lack of substantial economic benefit to justifying the conversion of industrial land with direct visibility and access to Interstate 880; and c) Conversions should only be contemplated after comprehensive land use, market, and economic analysis.

Under the Planning/Land Use Opportunities, staff believes that the conversion to residential is pre-mature and diminishes ability for future planning and land use opportunities considering that the Planning Commission has directed staff for a visioning study to be completed for the California Circle area; a formal work scope and contract with Cal Poly & Regional Planning Urban Design Studio has commenced; a pre-planning study will be presented to the Planning Commission on December 11, 2013; with the final print document delivered to the City Council in January 2014.

Mr. McHarris identified elevation issues that are related to a number of studies including the new BART system, and Santa Clara Valley Water District looking into creek levee improvements in the resulting in a variation of base flood elevation assumptions for the project site. Early in the process, project was slated at 1'-3' of flood elevation range and as it progressed, the proposal is now 6-8 feet in elevation which clearly impacts the design across the project site with the main aesthetic impact on California Circle and what that represents is unknown if that is the correct elevation for today when there are still some unknown issues perhaps in the near future.

Director McHarris concluded with a recommendation of project denial due to the inconsistencies with General Plan policies, and incompatible site layout, design and land use with the character of the surrounding development. Staff also received four comment letters including from Milpitas School District, operators of the Marriott Hotel and 2 from members of the public in opposition of the project and in support for the staff's recommendation.

Commissioner Madnawat asked if the base flood level is only in the parcel site or the surrounding areas as well and who owns the levee. Director McHarris replied it is the entire area and the levee is owned by Santa Clara Valley Water District. A follow-up question by Commissioner Madnawat, would it involve Santa Clara Valley Water District's approval for the levee elevation and Director McHarris replied yes.

Assistant Planner Cindy Hom added to the Director's comments that the proposed pedestrian bridge was initially proposed to align with Terra Mesa and at the community meetings, residents objected to the project's location as they don't want the future residents to access their property. Staff conveyed to Trumark that the proposed project requires a "public benefit" study and that the bridge must be feasible and Trumark's response was to relocate the bridge farther South and would be on the BAPS Temple property.

Commissioner Madnawat asked if the developers were presented the outcome of the public meeting and staff replied that it was the developers meeting. At that point, it was made clear that staff was not supportive of the project.

Chair Mandal opined that the way he looks at Milpitas, this area has an opportunity for City to develop futuristically industrial mix and other types of uses. It is in a prime area and would like to know if it makes sense to place a single-family residential housing

Planning Commission Minutes

October 23, 2013

project in this location. Mr. McHarris said it does not make sense due to not meeting General Plan policies.

Commissioner Morris asked if the developer had expressed in helping City in making the location beyond affordable housing, perhaps a mixed-use vision. Staff has discussed other uses to develop the site but the developers are opposed; however they have offered \$500,000 toward future planning efforts but only with approval of their single-family residential project.

Garrett Hines, Director of Architecture for Trumark Homes, stated their disappointment with the City's change of heart after two years and it is frustrating to be considered as inconsistent with the General Plan. He went on telling the Commissioners that the previous Planning Director James Lindsay and Acting Director Diana Barnhart told them that this area was earmarked for residential with the Penitencia Creek bridge, that staff had provided positive feedback and was arm-in-arm with Trumark in developing the proposed project. Mr. Hines also stated that the neighbors supported their housing project.

Mr. Hines presented to the Commission that the project is an appropriate housing project proposal with its attainable prices. The building illustrations shown at the meeting were computer-generated with the exact images down to the smallest details. An extensive EIR study was done. Mr. Hines also referenced the California Circle vision plan process as a college student charrette with wild nice vast array of ideas.

Chair Mandal asked Mr. Hines if Trumark would be interested in working with the City on a vision to develop a plan different from what they are proposing. Mr. Hines responded yes to another property.

Commissioner Madnawat commented that the problem is the flood elevation and residents have been vocal regarding housing project developments.

Alternate Member Morris would like to see the developers go back to staff and perhaps invest more time to possibly develop mix-use that should be part of the vision. Mr. Hines would like to forward with their project and be heard. Chair Mandal asked what other project they have in Milpitas. Mr. Hines responded it's called Pace that this Planning Commission approved.

Chair Mandal opened the public hearing for comments.

Jill Nunez, Steve Grispa, and Bob Nunez spoke against the proposed single-family project and favored the City exploring other land use options as discussed with the Planning Commission. There were also comments regarding the applicant's proposed pedestrian bridge and not accessing into private property.

Motion: to close the public hearing after hearing three individual comments.

Motion/Second: Commissioner Madnawat / Commissioner Mohsin

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

Planning Commission Minutes

October 23, 2013

Commissioner Barbadillo said two study options (one each from staff and developers) were presented and that the Commission should not only look at the business policy but also the spirit as to what this project could bring to the City. It is a good project but the long-term benefit is a question whether this is good for the City of Milpitas' residents so he was recommending to approve the staff recommendation.

Motion: to adopt Resolution No, 13-025 recommending to the City Council denial of General Plan Amendment No. GP12-0003, Zoning Amendment No. ZA12-0004, Site Development Permit No. SD12-0002, Planned Unit Development No. PD12-0001, and Major Vesting Tentative Map No. TM12-0001 based on the finding set forth in the staff report.

Motion/Second: Commissioner Barbadillo / Commissioner Madnawat

AYES: 6

NOES: 0

ABSENT: 2 Vice Chair Ciardella / Commissioner Sandhu

X. ADJOURNMENT

Commissioner Madnawat moved, and Commissioner Luk seconded, a motion to adjourn the Planning Commission meeting at 9:58 PM to the Planning Commission Workshop on Saturday, October 26 at 11:30 AM. Motion carried by unanimous vote.

These meeting minutes were approved by Planning Commission, as amended, on November 13, 2013.

*Rachelle Currie,
acting as Recording Secretary*