



MILPITAS PLANNING COMMISSION AGENDA REPORT

NEW BUSINESS

Meeting Date: 11/13/13

APPLICATION: **SUMMARY VACATION AND DISPOSITION OF A PORTION OF OLD CAPITOL AVENUE PUBLIC RIGHT-OF-WAY (KNOWN AS “WHITE HOLE”) – FINDING OF CONFORMANCE WITH TRANSIT AREA SPECIFIC PLAN AND GENERAL PLAN PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65402(a)**

APPLICATION SUMMARY: Finding that the Summary Vacation and disposition of the portion of Old Capitol Avenue Right-Of-Way (known as “White Hole”) for the Integral McCandless Mixed Use Project (District 1 Building 1) is in conformance with the General Plan and Transit Area Specific Plan pursuant to California Government Code Section 65402(a) .

LOCATION: 1315 McCandless Drive (APN 086-33-092)

APPLICANT: Integral Communities, LLC

OWNER: City of Milpitas

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 13-035 finding the summary vacation and disposition of a portion of old Capitol Avenue Right-Of-Way (known as “White Hole”) is in conformance with the Transit Area Specific Plan and General Plan.**

PROJECT DATA:
General Plan/
Zoning Designation: Retail High Density Mixed Use (MXD2)
Overlay District: Transit Oriented Development and Site and Architectural Overlays (TOD-S)

Specific Plan: Transit Area Specific Plan (TASP)

CEQA Determination: The project is Categoricaly Exempt from CEQA pursuant to Section 15312 for the disposition of surplus government property.

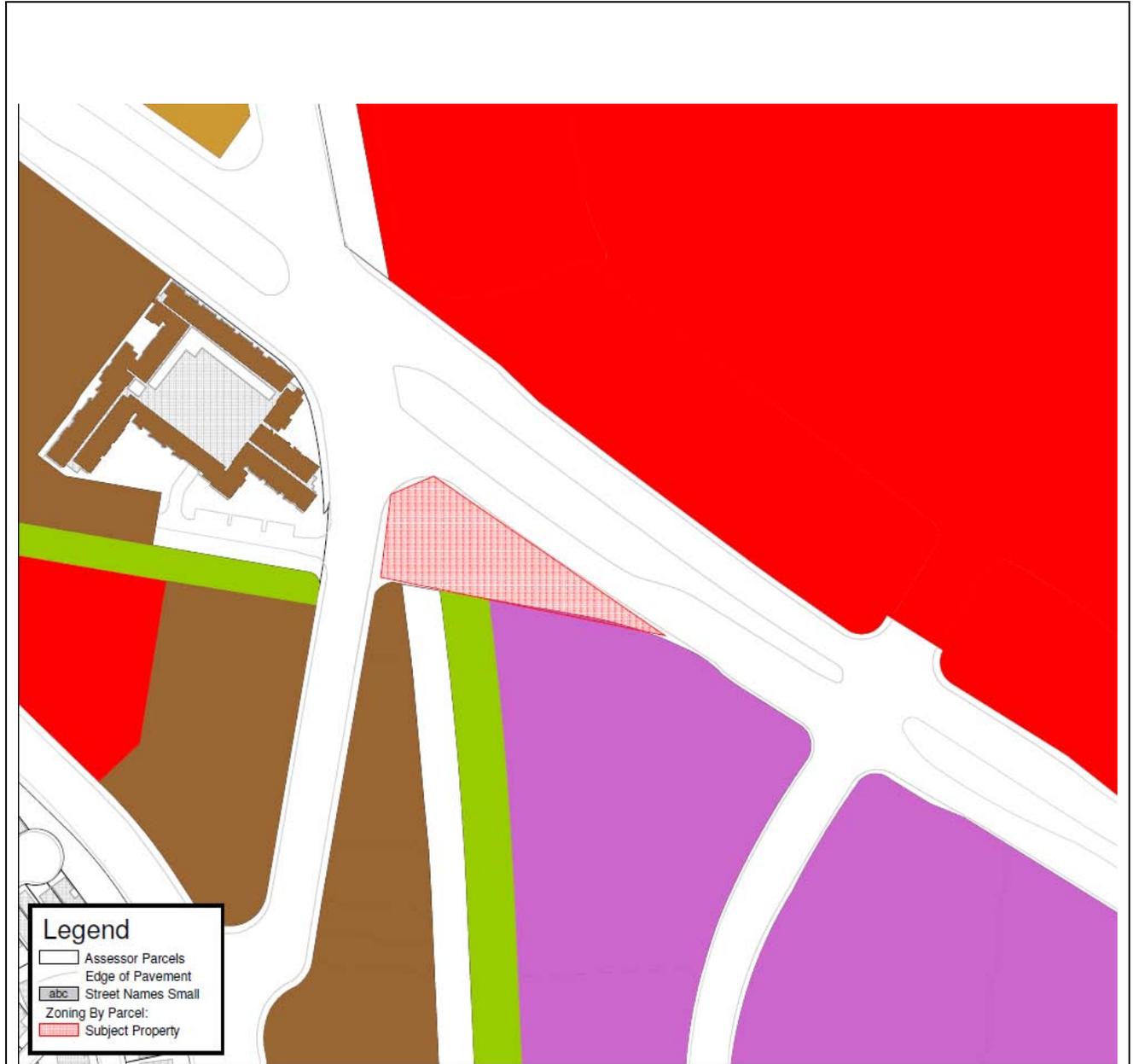
Site Area: 0.70 Acres

STAFF: Fariborz Heydari, Assistant Civil Engineer & Sheldon S. Ah Sing,
Senior Planner

PJ: 3222

ATTACHMENTS: A. Resolution No. 13-035
B. Exhibit 1 Attachment No. 1 (Summary Vacation of “White Hole”)

Map 1
Project Location



Map 2
Project Site



BACKGROUND

The City Council adopted Resolution No. 8029 on September 7, 2010 approving a tentative map for the construction of apartments, condominiums and commercial development by Integral Communities, LLC (District 1). The tentative map was subsequently amended by Resolution No. 8165 with the City Council approval on March 20, 2012 for the construction 934 dwelling units and 79,587 square feet commercial development located on McCandless Drive just south of Great Mall Parkway. As part of the development, the developer needs the “white hole” area to construct a private parking lot to serve the commercial uses and has request the City to vacate and sell the .7 acres at market value to the developer. Prior to vacating and disposing of a street, the City is required under State law to have the Planning Commission review the proposed vacation and disposition for General Plan conformance.

The Application

Summary Vacation—A request to allow the summary vacation and disposition of the unnecessary right-of-way to the adjacent property owner.

PROJECT DESCRIPTION

To accommodate the development, the City is considering summary vacating and disposing an unnecessary portion of Old Capitol Avenue Right-Of-Way (known as “White Hole”). Capitol Avenue, from South Abel Street to South Main Street, was previously vacated by the City Council by Resolution No. 6831 recorded on December 18, 1998 as part of the Great Mall Parkway realignment and widening project. The “white hole” area should have been vacated at that time as well, but, was not done so.

The subject site is located adjacent to Great Mall Parkway (See Maps 1 and 2). The surrounding zoning is High Density Retail Mixed Use (MXD2) to the south and General Commercial (C2) to the north. To the west is Union Pacific East Bay Line.

Right-Of-Way

The unnecessary portion of the roadway right-of-way has not been used for the purpose for which it was dedicated or acquired for at least the past five consecutive years. Therefore, it can be summarily vacated in accordance with the State Streets and Highway Code Section 8333(a). Utility Companies were notified and expressed no objection to the proposed vacation. Portion of the right-of-way to be vacated will be reserved as a public service and utility easement.

A local agency is not authorized to dispose of any real property unless the Planning Commission reviews and submit its report to the City Council on General Plan and Specific Plan conformance. Government Code Section 65402(a) states:

If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part

thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

REQUIRED FINDINGS

A finding is a statement of fact relating to the information that the Planning Commission or City Council has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

General Plan and Transit Area Specific Plan Conformance

1. *In accordance with Government Code Section 65402(a), the Planning Commission finds the proposed project as generally described above is consistent with the Milpitas General Plan and Milpitas Transit Area Specific Plan. Specifically, Guiding Policy 2.a I-31 of the General Plan and Policy 4.69 of the Transit Area Specific Plan.*
 - a. *General Plan Policy 2.a I-31 -- Develop the Transit Area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.*
 - b. *Transit Area Specific Plan Policy 4.69 -- Create a mixed use area with retail, restaurant, and personal service uses in the area closest to Great Mall Parkway.*

The proposed vacated property is adjacent to an approved High Density Mixed Use project. The site has been included as parking and access for the approved project. The site will be incorporated into the overall pedestrian trail network for the Transit Area. The vacated property is not a part of the existing street network or a part of the future street network as contemplated by the Transit Area. The proposed vacated property is considered surplus to the city and any need for the property can be accommodated through easements for utility or public access.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is Categorically Exempt from CEQA pursuant to Section 15312 for the disposition of surplus government property.

PUBLIC COMMENT/OUTREACH

Staff gave notice to the local utilities in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CITY COUNCIL REVIEW

The Planning Commission’s recommendation for conformance with the General Plan and the Transit Area Specific Plan will be forwarded to the City Council. The City Council will consider the disposition of the property.

CONCLUSION

The proposed Summary Vacation of the unnecessary portion of the old Capitol Avenue right of way is in accordance with the State Streets and Highway Code Section 8333(a). The Utility Companies were notified and expressed no objection to the proposed vacation. Portion of the right-of-way to be vacated will be reserved as a public service and utility easement.

STAFF RECOMMENDS THAT

Adopt Resolution No. 13-035 **finding the summary vacation and disposition of a portion of old Capitol Avenue Right-Of-Way (known as “White Hole”) is in conformance with the Transit Area Specific Plan and General Plan.**

Attachments:

- A. Resolution No. 13-035
- B. Exhibit 1 Attachment No. 1 (Summary Vacation of “White Hole”)

RESOLUTION NO. 13-035

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, FINDING THE SUMMARY VACATION AND DISPOSITION OF A PORTION OF OLD CAPITOL AVENUE RIGHT-OF-WAY (KNOWN AS “WHITE HOLE”) IS IN CONFORMANCE WITH THE TRANSIT AREA SPECIFIC PLAN AND GENERAL PLAN.

WHEREAS, on March 20, 2012, an application by Integral Communities was approved by the City Council to allow the construction of four mixed use buildings and 27 multi-family buildings at 1315 McCandless Drive, known as the “McCandless Mixed Use Project”.

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt under CEQA.

WHEREAS, on November 13, 2013 the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The project is categorically exempt from further environmental review pursuant to Section 15312 for disposition of surplus government property. The project is for the vacation and disposition of unnecessary City Right-Of-Way adjacent to the McCandless Mixed Use Project site and therefore meets the definition for this exemption.

Section 3: General Plan and Specific Plan Conformance pursuant to Government Code Section 65402(a) - The Planning Commission makes the following findings based on the evidence in the public record in support of the Summary Vacation Project:

1. *In accordance with Government Code Section 65402(a), the Planning Commission finds the proposed project as generally described above is consistent with the Milpitas General Plan and Milpitas Transit Area Specific Plan. Specifically, Guiding Policy 2.a I-31 of the General Plan and Policy 4.69 of the Transit Area Specific Plan.*
 - a. *General Plan Policy 2.a I-31 -- Develop the Transit Area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike and take*

transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.

- b. Transit Area Specific Plan Policy 4.69 -- Create a mixed use area with retail, restaurant, and personal service uses in the area closest to Great Mall Parkway.*

The proposed vacated property is adjacent to an approved High Density Mixed Use project. The site has been included as parking and access for the approved project. The site will be incorporated into the overall pedestrian trail network for the Transit Area. The vacated property is not a part of the existing street network or a part of the future street network as contemplated by the Transit Area. The proposed vacated property is considered surplus to the city and any need for the property can be accommodated through easements for utility or public access.

Section 6: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 13-035 finding the summary vacation and disposition of a portion of old Capitol Avenue Right-Of-Way (known as “White Hole”) is in conformance with the Transit Area Specific Plan and General Plan.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on November 13, 2013

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on November 13, 2013, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Garry Barbadillo				
Demetress Morris				

Summary Vacation of Portion of Old Capitol Avenue
("White Hole")
Exhibit 1

