



MILPITAS PLANNING COMMISSION STAFF REPORT

March 25, 2015

APPLICATION: A request for a Zoning Text Amendment and Environmental Impact Assessment to permit:

1. **Supportive and Transitional Housing in the Mixed Use (MDX) zoning district: and**
2. **Manufactured Housing in the Residential (R2) Zoning District.**

RECOMMENDATION: Staff recommends that the Planning Commission conduct a public hearing and adopt Resolution No. 15-015 recommending the City Council adopt Zoning Amendment No. ZA15-0002 and the Addendum to the 2013 Zoning Ordinance Amendments: Housing Element Implementation Project Initial Study and Negative Declaration.

LOCATION:
Address/APN: Citywide

PEOPLE:
Project Applicant: City of Milpitas
Consultant(s): Bay Area Economics (BAE) and PlaceWorks
Property/Business Owner: N/A
Project Planner: Tim Wong, Housing and Neighborhood Services Manager

LAND USE:
General Plan Designation: Residential
Zoning District: Residential (R2) and Mixed Use (MXD)
Overlay District: NA

ENVIRONMENTAL: Addendum to 2013 Zoning Ordinance Amendments: Housing Element Implementation Project Initial Study and Negative Declaration pursuant to CEQA Guidelines Section 15164(b).

EXECUTIVE SUMMARY

The proposed changes to the Zoning Code outlined in the attached Draft Ordinance would be to conform to State law and implement two programs included in the City's Housing Element, which was certified by the State Department of Housing and Community Development on December 30, 2014. The changes would (i) modify the Mixed Use (MXD) district to allow

supportive and transitional housing as a permitted use; and (ii) revise the R-2 zoning district to allow manufactured housing, subject to the same architectural requirements and standards as other dwellings in the same zone.

The State Department of Housing and Community Development (HCD) issued a certification letter, dated August 15, 2013, that the City's Housing Element is in full compliance with State Housing Element law with the two proposed zoning text amendments. The Housing Element provides a framework for housing opportunities for the City of Milpitas, and contains a series of goals, policies and programs to achieve the City's vision to preserve the existing housing stock and provide a range of housing types to meet the diverse housing needs of the community. The City Council will consider adopting the Housing Element and the proposed zone changes at their April 21, 2015 meeting.

This will meet Government Code Section 65588(e)(4) which requires the Housing Element to be adopted by the City within 120 days of the statutory due date of January 31, 2015.

BACKGROUND

History

California State Law requires that the City update its Housing Element every 8 years. California State Housing Element law requires each city and county to update its housing element to ensure that all localities provide adequate development sites for sufficient new housing to meet their fair share of the regional housing need. The Housing Element is the City's primary planning housing document. As a requirement for each Housing Element, goals, policies and programs are required to foster housing opportunities in the City.

During HCD review of the draft Housing Element, HCD noted two statutory inconsistencies. In 2008, Government Code Section 65583(a)(5) was amended requiring that transitional and supportive housing be a permitted use in all zone districts that allow for residential use. Transitional and supportive housing is permitted in all the residential zone districts but it is not included in the mixed use zone, which also allows for residential uses. In addition, Government Code Section 65852.3 requires that manufactured housing be allowed on lots zoned for conventional single family dwellings. Currently, the City's R-2 zone district does not permit for manufactured housing.

PROJECT DESCRIPTION

Overview

The proposed changes to the Zoning Code are meant to address the following five programs contained in the Housing Element.

Program D.4.3 ***The City will modify its Zoning Ordinance to allow transitional and supportive housing in all mixed-use zoning districts that allow residential uses, subject to the same requirements as other residential uses in the same zones.***

In 2008, the State modified Government Code Section 65583, which required that transitional and supporting housing be considered a residential use subject only to those restrictions that apply to other residential uses of the same type in the same zone. Currently, transitional and supportive housing is permitted in all residentially zoned districts. However, during Housing Element discussions with HCD, HCD staff noted that uses were not included as permitted uses in City's mixed use zoning (MXD) district.

Title 11, Chapter 10, Section XI-10-6.02, Table XI-10-6.02-1 "Mixed Use Zone Uses" of the City code would be revised to include transitional and supportive housing as a permitted use.

Program D.5.3 The City will modify the zoning ordinance to allow manufactured housing in all zoning districts where residential development is allowed, subject to the same architectural requirements and development standards as other dwelling in the same zone.

Government Code Section 65852.3 requires that a city allow the installation of manufactured homes on lots zoned for conventional single-family residential dwellings. Again, HCD staff noted there was no provision that specific text that allowed manufactured housing in the R-2 district, which contains lots for conventional single family residential dwellings is allowed. Revising the R-2 code will meet the State code.

Title 11, Chapter 4, Table XI-10-4.02-1 "Residential Zone Uses" would be revised to allow manufactured housing in the R-2 district.

FINDINGS

Pursuant to Section 57 of the Zoning Code, the Planning Commission is required to make specific Findings before recommending approval of a Zoning Amendment. Findings shall identify the rationale behind the decision to take a certain action. Each code-required Finding is analyzed below (Section XI-10-57.02.G.3).

1. The proposed amendment is consistent with the General Plan.

The General Plan land use designation for both the MXD and R2 zoning district allow for residential uses. The proposed zone amendments clarify additional residential uses that are allowed in the zone districts as required by State law. Allowing supportive/transitional housing and manufactured housing in the MXD and R2 zone districts, respectively, is consistent with the Residential General Plan land use designation.

2. The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.

The proposed zoning amendment is required by State law and will result in a more efficient use of land by allowing additional uses and housing types. The land use

regulations will not affect the range of uses permitted or conditionally permitted. Residential uses are already allowed in both MXD and R2 zone districts and will continue to be allowed.

ENVIRONMENTAL REVIEW

On November 19, 2013, the City Council approved Ordinance No. 38.810 which amended the City's Zoning Code to include provisions relating to emergency shelters, single room occupancy residences, supportive housing, transitional housing and reasonable accommodations. A Negative Declaration, *Zoning Ordinance Amendments: Housing Element Implementation Project Initial Study and Negative Declaration*, was prepared for the zone amendments.

Because the additional Zoning Ordinance Amendments would not involve new significant information or environmental effects and no substantial changes are required to the Housing Element Initial Study and Negative Declaration per CEQA Guidelines Section 15162, an "Addendum" to the *Zoning Ordinance Amendments: Housing Element Implementation Project Initial Study and Negative Declaration* would be the appropriate CEQA document consistent with CEQA Guidelines Section 15164(b). Further, each project would be subject to its own environmental review.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on March 13, 2015. (Two Fridays before the meeting) A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CITY COUNCIL REVIEW

This project requires review by the City Council. The City Council will consider both the adoption of the Housing Element and approval of the zoning ordinance revisions on April 21, 2015.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution No. 15-0015 Recommending the City Council to amend the Zoning Code to permit supportive and transitional housing in the Mixed Use (MDX) zoning district and permit manufactured housing in the Residential-2 (R2) zoning district.
4. Adopt the Ordinance

ATTACHMENTS

- A: Resolution No. 15-0015
- B: Ordinance 38.822
- C: Addendum to *Zoning Ordinance Amendments: Housing Element Implementation Project Initial Study and Negative Declaration*
- D: City Map with MXD and R-2 Zoning districts