



**JOINT MEETING OF MILPITAS CITY COUNCIL,
SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY,
MILPITAS HOUSING AUTHORITY, AND
ECONOMIC DEVELOPMENT CORPORATION**

**AGENDA
TUESDAY, NOVEMBER 19, 2013**

**455 EAST CALAVERAS BLVD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - 1. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to California Government Code Section 54957.6. City Negotiator: Tom Williams
Employee Groups: International Association of Fire Fighters (IAFF), Mid-management and Confidential Unit, and Professional and Technical Group (ProTech)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(a)
County of Santa Clara, et al., v. Milpitas Economic Development Corporation, et al., Sacramento County Superior Court case no. 34-2013-80001436, and
Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al., Sacramento County Superior Court case no. 34-2013-80001508
 - 3. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(a)
City of Milpitas v. City of San Jose, Santa Clara County Superior Court case no. 112CV233069
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – November 5, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – November and December 2013**
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with asterisks*)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. PUBLIC HEARINGS

- 1. Public Hearing on Updated Building Codes, Waive the Second Reading and Adopt Ordinance No. 65.142, Adopting the 2013 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2012 Edition of International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- 2. Public Hearing on Updated Fire Code, Waive the Second Reading and Adopt Ordinance No. 113.23, Adopting the 2013 Edition of the California Fire Code and Specified Local Amendments (Staff Contact: Albert Zamora, 408-586-3371)**
- 3. Public Hearing and Introduction of Ordinance 38.810 Amending City's Zoning Code to Include Provisions Relating to Emergency Shelters, Single Room Occupancy Residences, Supportive Housing, Transitional Housing and Reasonable Accommodations (Staff Contact: Felix Reliford, 408-586-3071)**
- 4. Public Hearing on Trumark Homes' Request to Convert 10.7 Acres of Industrial Land for a Residential Development Along California Circle and Consider Planning Commission's Recommendation to Adopt a Resolution Denying the Waterstone Residential Project (Staff Contact: Cindy Hom, 408-586-3284)**

XIV. REPORT OF OFFICER

- * 5. Consider Approving Submission of a Letter to Lt. Governor Gavin Newsom in Opposition to the Legalization of Marijuana (Staff Contact: Michael Ogaz, 408-586-3040)**

XV. ORDINANCE

- * 6. Second Reading and Adoption of Ordinance No. 286 for Levying and Apportioning the Special Tax in Community Facilities District No. 2013-1 (Piper Montague) (Staff Contact: Emma Karlen, 408-586-3145)**

XVI. RESOLUTIONS

- * 7. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for the Park Renovation 2011 Project No. 5091 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 8. Adopt a Resolution Approving a Contract with James Faggiano an Individual doing business as JAFCO Canine Management for Police Canine Training Annually Not-To-Exceed \$20,260 and Authorize the City Manager to Renew the Agreement on an Annual Basis (Staff Contact: Chris Schroeder, 408-586-3161)**

- * 9. **Adopt a Resolution Authorizing the Purchase of Seven Police Vehicles from the National Auto Fleet Group for Not-To-Exceed \$239,895.29 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

XVII. AGREEMENTS

- * 10. **Approve an Agreement with Material and Contract Services for a Contract Buyer, Not-to-Exceed \$45,000 (Staff Contact: Emma Karlen, 408-586-3145)**
- * 11. **Approve an Agreement with Reed C. Grandy for the Light Rail Median Landscaping Project No. 2001 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 12. **Approve Amendment No. 3 to the Agreement with TerraCare Associates to Add Two New Service Areas to the City of Milpitas Streetscape Landscape Maintenance and Repair Services Agreement for the Annual Increase Amount of \$6,420 (Staff Contact: Chris Schroeder, 408-586-3161)**

XVIII. DEMAND

- * 13. **Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for Not-to-exceed \$90,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

XIX. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND MILPITAS HOUSING AUTHORITY

HA1. Call to Order/Roll Call by the Mayor/Chair

HA2. Approval of Agenda

HA3. Conduct Public Hearing and Consider Approval of Assignment and Assumption Agreement and First Amended and Restated Disposition and Development Agreement to Sell 5.94 acres of Land Located at 1504-1620 South Main Street for an Affordable Senior Facility Development (Staff Contact: Felix Reliford, 408-586-3071)

HA4. Authority Adjournment

XX. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND ECONOMIC DEVELOPMENT CORPORATION

EDC1. Call to Order/Roll Call by the Mayor/Chair

EDC2. Approval of Agenda

EDC3. Status Report on McCandless Property Park and Potential School (Staff Contact: Tom Williams, 408-586-3050)

EDC4. Corporation Adjournment

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULE COUNCIL MEETING
TUESDAY, DECEMBER 3, 2013 AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist on the:
Emergency Preparedness Commission
Public Art Committee (Alliance for the Arts member)
Recycling and Source Reduction Advisory Commission
Telecommunications Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings.

AGENDA REPORTS

XIII. PUBLIC HEARINGS

- 1. Public Hearing on Updated Building Codes, Waive the Second Reading and Adopt Ordinance No. 65.142, Adopting the 2013 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2012 Edition of International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: On November 5, 2013, the City Council introduced Ordinance No. 65.142. Ordinance No. 65.142 repeals Chapter 1, Chapter 2, Chapter 3, Chapter 5, Chapter 6, Chapter 7, Chapter 8, Chapter 11, Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 19, Chapter 20, Chapter 150 and Chapter 170 of Title II of the Milpitas Municipal Code and adopts by reference the 2013 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2012 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5, along with specified local amendments. No changes have been made to the ordinance since its first reading. As noticed, a public hearing must be conducted to receive any comments, prior to the adoption of the ordinance.

Fiscal Impact: None.

Attachments: Ordinance No. 65.142 and Resolution

Recommendations:

1. Open the public hearing for comments, then move to close the hearing.
 2. Adopt a resolution making the findings required under state law for the local amendments of the 2013 Building Code Update.
 3. Waive the second reading of Ordinance No. 65.142.
 4. Adopt Ordinance No. 65.142.
- 2. Public Hearing on Updated Fire Code, Waive the Second Reading and Adopt Ordinance No. 113.23, Adopting the 2013 Edition of the California Fire Code and Specified Local Amendments (Staff Contact: Albert Zamora, 408-586-3371)**

Background: On November 5, 2013, the City Council introduced Ordinance No. 113.23. Ordinance No. 113.23 repeals Chapter 300 of Title V of the Milpitas Municipal Code and adopts by reference the 2013 California Fire Code, along with specified local amendments. No changes have been made to the ordinance since its first reading. As noticed, a public hearing must be conducted to receive any comments, prior to the adoption of the ordinance.

Fiscal Impact: None.

Attachments: Ordinance No. 113.23 and Resolution

Recommendations:

1. Open the public hearing for comments, then move to close the hearing.
2. Adopt a resolution making the findings required under state law for the local amendments of the 2013 California Fire Code Update.
3. Waive the second reading of Ordinance No. 113.23.
4. Adopt Ordinance No. 113.23.

3. Public Hearing and Introduction of Ordinance 38.810 Amending City's Zoning Code to Include Provisions Relating to Emergency Shelters, Single Room Occupancy Residences, Supportive Housing, Transitional Housing and Reasonable Accommodations (Staff Contact: Felix Reliford, 408-586-3071)

Background: Per California Government Code §65580-65589, all California cities are required to prepare and implement a General Plan Housing Element every eight years to comply with state and regional housing goals. The Housing Element contains the following major subject areas:

- The evaluation of local housing needs and analysis of constraints that would affect the ability of the marketplace to meet these needs.
- The identification of community housing goals, objectives and policies.
- An evaluation of the community's performance in achieving the goals that were established for the previous five-years.
- The description of a new eight-year housing program to meet the identified housing needs and goals.

The Milpitas Housing Element was last adopted by the City Council in June 2010 and found by the State of California Department of Housing and Community Development (HCD) to be in conformance with the State Housing Element laws. On June 16, 2013, the Council authorized the City Manager to execute an agreement with Bay Area Economics (BAE) to prepare the Milpitas General Plan Housing Element Update. As required by Housing Element law, a series of community meetings will be held to obtain public input and comments during the preparation process. The proposed Housing Element Update is due by January 31, 2015 and will be presented to the Planning Commission and City Council next year.

STATE LAWS

Housing Element Law. Government Code Section 65583 requires the housing element to identify adequate sites for a variety of housing types including multi-family rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters and transitional housing.

Senate Bill 2 Housing Element Law. Senate Bill 2 clarifies and strengthens the housing element law to ensure local zoning laws encourages and facilities emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. The law facilitates efforts to address the critical needs of homeless populations and special needs throughout all communities in California. SB 2 amends housing element law regarding planning and approval for emergency shelters and transitional and supportive housing as follows:

Emergency Shelters. Government Code Section 65583(a)(4) requires identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

- At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one-year round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion of emergency shelters
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provisions of onsite management, length of stay and security.

- Includes flexibility for jurisdictions to meet zoning requirements within existing ordinances or demonstrate the need for emergency shelters can be accommodated in existing shelters or through a multi-jurisdiction agreement.

Single Room Occupancy (SRO) Housing

- Single room occupancy (SRO) residence is a multi-tenant building consisting of single room dwelling units that are primary residence of its occupants and contains either individual or shared kitchen or bathroom facilities. These are small units and provide a valuable source of affordable housing for individuals and can serve as entry point into the housing market for formerly homeless people. There is no specific State Law requiring SROs to be in any particular zones or to be treated similar to other similar dwelling types.

Transitional and Supportive Housing

- California Government Code Section 65583(a)(5) states that Transitional and Supportive Housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone. The City is required to treat Transitional Housing and Supportive Housing, as proposed to be defined below, similar to other residential dwellings of the same type in the same zone.

Reasonable Accommodation - Government Code Section 65583(c)(3) Requires the Housing Element provide a program to address and remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities where appropriate and legally possible. The program shall remove constraints to and provide reasonable accommodations for housing designed for, intended for occupancy by or with supportive services for persons with disabilities.

Housing Element Permit Streamlined Review State of California Department of Housing and Community Development (HCD) is the state agency which reviews and certifies cities and counties housing elements. HCD has established a permit streamlined process for those cities and counties that meet specific criteria. The streamlined review process would allow those governmental jurisdictions to expedite their approval of the state-mandated housing element if their zoning includes compliance with SB-2 and other requirements. The existing Housing Element meets all of the other requirements with the exception of SB2 and the State law provisions referenced above. Therefore, staff requests zoning amendments as described.

PROJECT DESCRIPTION

Zoning Ordinance Amendments

The purpose and intent of the proposed zoning ordinance amendments is to comply with state-mandated Housing Element Law, and to provide housing opportunities and reasonable accommodation for special need groups such as low-income seniors, victims of domestic violence (families and children), female-headed households, persons with disabilities and homeless. Through legislation, the State of California has required certain uses be permitted with limited or no discretionary action.

The proposed Zoning Ordinance Amendments includes the following:

Definitions:

- Establish the definitions for emergency shelters, single-room occupancy residences, transitional and supportive housing. Staff recommends amending Title XI, Chapter 10, Section 2 of the Milpitas Zoning Ordinance to include the definitions for emergency shelters, single room occupancy residences, transitional housing, and supportive housing as set forth in the attached proposed ordinance.

Permitted and Conditional Uses:

- Identify the appropriate Residential, Commercial and Mixed Use Zoning Districts as permitted and conditional uses for emergency shelters, single room occupancy residences,

and transitional and supportive housing. Staff recommends amending Title X1, Chapter 10, Section 4.02.1 to include emergency shelters, single room occupancy residences, transitional housing, and supportive housing as permitted and conditional uses in Residential Use Regulations, Section 5.02.1 Commercial Use Regulations, and Section 6.02.1 Mixed Use Regulations, as set forth below.

- **Emergency Shelters** would be permitted by right in the Commercial/Highway Services (HS) Zoning District provided that all of the Special Uses Development Standards established in the proposed Section 13 of the Zoning Code were met. If these development standards are not met, the City has the right to require a Conditional Use Permit.
- **Single-Room Occupancy Residences** would be permitted by Conditional Use permit in the following Residential Zoning Districts (R-3, R-4, and R-5), Commercial/Highway Services (HS). Section 13 Special Use Development Standard has been incorporated as minimum standards to be met for the use permit.
- **Transitional and Supportive Housing** would be permitted by right in the following Residential Zoning Districts (R-2, R-3, R-4, and R-5) and Mixed Use Zoning Districts (MXD, MXD2 and MXD3). No residential uses would be permitted on the ground floor of the MXD Zoning Districts. State Law requires that Transitional and Supportive Housing uses must be treated the same as other residential uses of the same type within the same zoning districts. This approval is by right and does not allow discretionary review or approval by the City.

Minimum Standards:

- Staff proposes to identify in the Special Uses section in the Zoning Ordinance, minimum standards for single-room occupancy residences and emergency shelters.

Staff recommends amending **Title X1, Chapter 10, Section 13.13 & .14 to include a list of Special Uses and** establish guidelines and development standards for Emergency Shelters and Single-Room Occupancy Residences. If these development standards are met, emergency shelters would not require discretionary review by the City. If these development standards are not met, the applicant needs to apply for a Conditional Use permit to be reviewed and approved by the Planning Commission. As for Single-Room Occupancy Residences, a Conditional Use Permit will be required at all times.

Reasonable Accommodations:

- Establishes policies and criteria for reasonable accommodations as it relates to housing opportunities. Staff recommends amending **Title X1, Chapter 10, Section 62.01 to include a Reasonable Accommodations provision.**

State Law requires that policies and procedures are adopted to ensure reasonable accommodation for persons with disabilities seeking equal access to housing. A reasonable accommodation is typically an adjustment to the physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled person.

Because of the size and number of proposed Zoning Ordinance Amendments, the amendments are included as a redlined Ordinance in the Council's agenda packet. Staff, along with the Housing Element Consultant - Bay Area Economics (BAE)/The Planning Center, will provide a presentation on the proposed amendments at the Council meeting.

ENVIRONMENTAL REVIEW

A Negative Declaration was completed in compliance with the California Environmental Quality Act (CEQA), the guidelines as promulgated by the State Secretary of Resources, and the procedures for review as set forth in the City of Milpitas Environmental Review Guidelines and an Initial Study was been prepared for the project which recommended adoption of a Negative

Declaration. Staff reviewed full record relating to the Negative Declaration and recommends the City Council find there is no substantial evidence in the record before it that the project will have a significant effect on the environment, and that the negative declaration reflects its independent judgment.

At its meeting on October 23, 2013, the Planning Commission unanimously recommended approval of the Negative Declaration and Zoning Ordinance Amendments. Included in the Council's agenda packet is copy of the background information regarding this agenda item.

Fiscal Impact: None.

Attachments: Ordinance No. 38.810, Environmental Documents, and Meeting Minutes of the Planning Commission of 10/23/2013

Recommendations:

1. Open the public hearing for comments, then move to close the hearing.
2. City Attorney shall read aloud the title of Ordinance No. 38.810.
3. Waive the first reading beyond the title of Ordinance No. 38.810.
4. Move to introduce Ordinance No. 38.810 amending the Milpitas Zoning code to include provisions for Emergency Shelters, Single Room Occupancy Residences, Supportive Housing, Transitional Housing and Reasonable Accommodations.

4. Public Hearing on Trumark Homes' Request to Convert 10.7 Acres of Industrial Land for a Residential Development Along California Circle and Consider Planning Commission's Recommendation to Adopt a Resolution Denying the Waterstone Residential Project (Staff Contact: Cindy Hom, 408-586-3284)

Background: In November 2011, Trumark Homes ("Applicant") submitted a preliminary General Plan Amendment application for a development proposal for an 84-unit residential subdivision and a pedestrian bridge over Penitencia Creek and proceeded with a formal application in May 2012 to convert 10.7 acres of developed industrial property to 84 detached single family homes along California Circle. The project request also included supplemental land use changes to adjacent properties totaling 18.5 acres as well as a public benefit amenity proposal to construct a Penitencia Creek pedestrian bridge. A detailed project description is provided in the October 23, 2013 Planning Commission staff report.

The project application remained incomplete through October 2013 due to lack of information regarding compliance with C.3 Storm Water Control requirements, unresolved grading and drainage issues, lack of details for the proposed pedestrian bridge and development standards, as well as incomplete site and architectural design components. The Applicant submitted more information in February 2013. The Applicant held a community meeting in May 2013 to discuss their pedestrian bridge proposal. Residents of the California Landing and Villas opposed the proposed pedestrian bridge. As a result of project analysis, the community meeting, lack of public benefit amenity, the changing economic prospects for the California Circle area, staff communicated to applicant the lack of support for the proposed project based on General Plan and Zoning inconsistencies, as well as a need to comprehensively study the California Circle, Fairview, and Cadillac Court Area.

In June 2013, the Planning Commission conducted a study session on the California Circle area to review land uses, opportunities and constraints, and receive input for future land use and economic development planning of this area. The Planning Commission acknowledged that the California Circle area represents an important and unique opportunity to plan for long term land uses and economic development that would best serve the Milpitas community. The Planning Commission directed staff to proceed with vision planning, communicating a lack of interest in single-family residential for this area. (See 6/12/13 Planning Commission Meeting Minutes).

The vision planning is currently underway and staff intends to bring forward a report with conceptual plans for the Planning Commission's review and comment in December.

At the applicant's request, staff proceeded with processing the application for the residential development project with the explicit understanding that there was no staff support for the requested General Plan Amendment, that the Planning Commission communicated no interest in single-family residential development in this location, and that the City had begun preparation of a long range visioning study for the California Circle area. As with all pre-planning and formal planning applications, staff followed standard practice of providing zoning and development standard information and input as requested by the applicant with the understanding that it is ultimately the City Council which would review and consider the proposed project.

City's Broad Discretion Regarding Legislative Acts

Legislative Acts include both General Plan Amendments and Zoning Amendments, as proposed by the applicant. The City Council is granted broad discretion to make these decisions by State statute and the California Constitution. As such, legislative acts carry the highest threshold for consideration because the General Plan establishes well planned land uses and internally consistent development policies for the entire City. Proposed amendments to the City's General Plan and zoning ordinance require careful consideration and are not subject to the Permit Streamlining Act.

Project Analysis

On October 23, 2013, the Planning Commission held a duly noticed public hearing, received presentations from staff and the applicant as well as public testimony in opposition to the proposed project. Based on the Planning Commission review of project analysis, the Planning Commission unanimously determined the proposed project is inconsistent with the Milpitas General Plan and its long term land use strategy, based on the following findings:

1. The proposed project does not maximize density to achieve a compact form or emphasize mixed use development that maximizes job development or commercial or industrial opportunities.
2. The Transit Area and MidTown have not reached 80 percent build-out.
3. Conversion to residential may impede Dixon Landing Business Park's ability to reposition itself and take advantage of the recent economic recovery.
4. No substantial economic benefit provided by the proposed project that would justify the conversion of prime employment-generating business park property with direct visibility and access to Interstate 880.
5. Conversion from employment generating land uses to uses that increase the residential population should only be considered after proper planning and analysis in light of the City as a whole.

Furthermore, the proposed project has significant site plan deficiencies creating incompatibilities with the surrounding area, which includes the following findings:

1. The proposed project appears as an island of residential amid the Dixon Landing Business Park characterized by industrial and commercial buildings and streetscape.
2. Due to uncertainty with the Base Flood Elevation, the entire site has been design to a worst case scenario which elevates the property approximately six (6) feet higher than neighboring properties. This condition would physically and visually detract from surrounding development requiring a combination of tall retaining/privacy walls creating a walled-off community appearance.
3. The I-880/California Circle location is identified as a "Gateway Site" in the City's Streetscape Master Plan, requiring enhanced design and identification.

Lastly, the applicant's request is premature representing a lost opportunity for the City to significantly influence planning, economic development, and future land use for the California

Circle Area. The California Circle area presents many planning opportunities given its location and proximity to I-880, its ability to utilize existing infrastructure, and its potential for aesthetic, creek, trail, and recreational amenities that will benefit the general public. In so far, a land use visioning study under contract with the Cal Poly City & Regional Planning Urban Design Studio is nearing completion. The results of the study will be presented to the Planning Commission on December 11, 2013 and a final print document is anticipated to be presented to the City in January 2014.

Economic Development

On October 26, 2013, the Planning Commission conducted a second study session on the California Circle area to review and discuss three land use scenarios prepared by the Cal Poly San Luis Obispo Urban Design Studio in consultation with City staff. The Planning Commission emphasized commercial land uses, hotels and public meeting/gathering spaces, high quality pedestrian oriented amenities such as pedestrian walkways, urban plazas and signature architecture, cultural venues, culminating in an overall gateway/economic development land use theme for the City. The Planning Commission expressed support for residential only as an integrated component of an overall commercial or office environment. There was no interest in single-family residential development within the California Circle study area (Refer to 10-23-13 draft Planning Commission Meeting Minutes). Land use scenarios and visioning are currently being revised by the Cal Poly team and staff to reflect the Planning Commission study session.

Also, the Marriott Hotel currently operates a 120 room Residence Inn adjacent to the proposed Project (located at 1501 California Circle). Hotel representatives contacted and met with City staff on several occasions indicating their concerns of the proposed project. Marriott Residence Inn stated the proposed single-family uses is inappropriate in the Industrial Park and will adversely affect its business. More importantly, the City was in contact with a representative for various hotel operators like Holiday Inn Express and Sheraton who is currently pursuing purchase of land in the California Circle area for a hotel and has also expressed significant concerns with the proposed project. Both hotels object to the proposed single-family residential development and believe it will severely impact their businesses because single-family residential not only changes the character and image of the commercial area, it also detracts from the potential economic development opportunities for future uses as currently being studied by the Planning Commission.

The current Marriott Residence Inn provides significant economic impact to the City with Transient Occupancy Tax (TOT) and sales taxes. Additionally, a Holiday Inn Express-type hotel would bring additional revenues to the City and potentially revitalize the Industrial Park. Hotels are a significant economic benefit for the City and allowing industrial land to be converted to single-family residential adjacent to an existing and future hotels could reduce revenues to the General Fund.

Conclusion

Based on the reasons described and in the Planning Commission staff report, the Planning Commission unanimously recommended the City Council deny the application request to change the land use designations from Industrial Park to Residential. A Final Environmental Impact Report was prepared in accordance with CEQA and is included as part of the attachments. If the City Council denies the proposed project, no action is required on the project's Final Environmental Impact Report.

Fiscal Impact: None if denied. Potential impacts to General Fund if approved.

Attachments:

- A. Resolution
- B. Project Plans
- C. Project Letter
- D. Final Environmental Impact Report (draft) and Draft EIR

- E. Letter from Milpitas Unified School District
- F. Meeting Minutes of the Planning Commission 6/12/13
- G. Planning Commission Staff Report Final 10/23/13
- H. Letter from Residence Inn re: Trumark Homes application

Recommendations:

- 1. Open the Public Hearing for comments, then move to close the hearing.
- 2. Regarding the Trumark Homes at California Circle proposed development project, consider the Milpitas Planning Commission’s recommendation to adopt a resolution denying General Plan Amendment No. GP12-0003, Zoning Amendment No. ZA12-0004, Site Development Permit No. SD12-00002, Planned Unit Development No. PD12-0001, and Major Vesting Tentative Map No. TM12-0001, with no action taken on the Final Environmental Impact Report.

XIV. REPORT OF OFFICER

- * **5. Consider Approving Submission of a Letter to Lt. Governor Gavin Newsom in Opposition to the Legalization of Marijuana (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: On November 5, 2013, Vice Mayor Althea Polanski requested the City Council consider sending a letter to Lieutenant Governor Gavin Newsom opposing the general legalization of marijuana in California. A proposed letter is included in the agenda packet.

Recent statements in the media by the Lieutenant Governor indicate that he will head a panel of the American Civil Liberties Union looking into legalization laws in Colorado and Washington and how those are being implemented. Presumably this would be in anticipation of a California statewide ballot proposition in 2016.

California has already legalized marijuana for certain medicinal purposes. According to Newsom, the new law would be a general legalization of marijuana. This would have no effect on federal law which has always prohibited the use of marijuana for any purpose.

Fiscal Impact: None.

Recommendation: Approve submission of the drafted letter to the state’s Lt. Governor opposing efforts generally to legalize marijuana in California (or provide other direction to staff).

XV. ORDINANCE

- * **6. Second Reading and Adoption of Ordinance No. 286 for Levying and Apportioning the Special Tax in Community Facilities District No. 2013-1 (Piper Montague) (Staff Contact: Emma Karlen, 408-586-3145)**

Background: At the November 5, 2013 meeting, the City Council held a public hearing and adopted a resolution establishing Community Facilities District No. 2013-1 (Piper Montague) and calling an election for the purpose of submitting the levy of the special tax, the incurrence of bonded indebtedness, and the establishment of an appropriations limit to the qualified electors of the proposed community facilities district. The results of the special election were unanimously in favor of the levy of the special taxes to pay for the costs of certain shared public infrastructure improvements. Ordinance No. 286 was introduced at the same Public Hearing and is now ready for a second reading and adoption. This ordinance authorizes and levies special taxes within the City of Milpitas Community Facilities District No. 2013-1, at the rate and in accordance with the Rate and Method of Apportionment of Special Taxes, as approved by the resolution establishing the community facilities district.

Fiscal Impact: Adoption of Ordinance No. 286 will enable the City to levy and apportion the special tax in Community Facilities District No. 2013-1 to recover City costs associated with the construction of shared public infrastructure improvements.

Recommendations:

- 1. Waive the second reading of Ordinance No. 286.
- 2. Adopt Ordinance No. 286 for Levying and Apportioning Special Tax in Community Facilities District No. 2013-1 (Piper Montague).

XVI. RESOLUTIONS

*** 7. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for the Park Renovation 2011 Project No. 5091 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: The City Council awarded the 2011 Park Renovation Project to DRT Grading and Paving Inc., on April 2, 2013. The project provided for repairs to the pathways at Pinewood Park and Albert J. Augustine Jr. Memorial Park. The project also includes the installation of Americans with Disabilities Act (ADA) compliant curb ramps connecting the pathways to City sidewalks. The project was successfully completed on time and within budget. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor’s faithful performance bond to \$13,911.02, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Park Renovation 2011, Project No. 5091, subject to a one-year warranty period, and reduce the faithful performance bond to \$13,911.02.

*** 8. Adopt a Resolution Approving a Contract with James Faggiano an Individual doing business as JAFCO Canine Management for Police Canine Training Annually Not-To-Exceed \$20,260 and Authorize the City Manager to Renew the Agreement on an Annual Basis (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The City’s purchasing staff worked with the Police Department Canine Unit to develop specifications for Police Canine training. The Invitation for Bid was released on October 21, 2013 and was advertised in the local newspaper, on the City website and on Public Purchase. Four bidders responded and the results are summarized below.

| <u>Bidder</u> | <u>Base Bid</u> |
|---|-----------------|
| Ultimate K9 Training | Disqualified |
| Vigilant Canine Services International, LLC | \$26,700 |
| Witmer-Tyson Imports, Inc. | \$26,600 |
| JAFCO Canine Management | \$20,260 |

The contract will provide weekly maintenance training, Basic Canine Handler and Basic Narcotics Canine Handler training, AKC Canine Good Citizen training, and optional weekend maintenance training. The contract is for one year for \$20,260 with an option for four one year extensions bringing the total value of the contract to \$101,300. Renewal years contain a compensation adjustment clause based on past performance and proof of the prior four quarters of industry price change or 5%, which ever is less.

Fiscal Impact: None. This is a programmed expense in the Police Department’s budget.

Recommendations:

1. Adopt a resolution approving the contract with James Faggiano an individual doing business as JAFCO Canine Management for Police Canine Training in the annual not-to-exceed amount of \$20,260, and not to exceed \$101,300 during the five year term.
 2. Authorize the City Manager to extend the term of the agreement annually for the next four years with an annual increase of no more than 5% per year, without further City Council action, except for appropriation of funds.
- * **9. Adopt a Resolution Authorizing the Purchase of Seven Police Vehicles from the National Auto Fleet Group for Not-To-Exceed \$239,895.29 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Police Department's Fiscal Year 2013-14 budget includes purchase of five 2014 Ford Sedan Police Interceptors and two Ford 2014 Ford Utility Police Interceptors (vehicles), including fitting them with standard push bars, to replace equipment that has reached the end of its useful life. This is a cooperative purchase through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for Proposal (RFP) #102811 entitled "Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories" and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas. The price for the vehicles is the same as that offered in the original agreement.

Fiscal Impact: None. Sufficient funding is in the FY 2013-14 Equipment Replacement Fund for this purchase.

Recommendation: Adopt a resolution authorizing the purchase of seven police vehicles from the National Auto Fleet Group for the not-to-exceed amount of \$239,895.29 through a cooperative procurement contract, per Milpitas Municipal Code Section I-2-3.08 "Cooperative Purchasing."

XVII. AGREEMENTS

- * **10. Approve an Agreement with Material and Contract Services for a Contract Buyer, Not-to-Exceed \$45,000 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: To achieve cost savings in FY 2013-14 the Finance Department includes a vacant Buyer position that is not funded. The workload of purchasing citywide goods and services through bids or requests for proposals, contract administration and other purchasing services can be very heavy at times and is beyond the capacity of one Purchasing Agent. In order to provide timely and efficient purchasing services, staff recommends contracting with Material and Contract Services for a contract buyer to assist the Finance Department with various purchasing projects as needed. It is anticipated that the contract buyer will not perform work for more than 1,000 hours.

Fiscal Impact: None. Sufficient funding is available in the Finance Department budget.

Recommendation: Authorize an agreement with Material and Contract Services for a contract buyer for a total amount not-to-exceed \$45,000.

- * **11. Approve an Agreement with Reed C. Grandy for the Light Rail Median Landscaping Project No. 2001 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: Project No. 2001, the Light Rail Median Landscaping Project, is included in the approved Capital Improvement Program. Work involves the installation of median landscape

and irrigation improvements along the Great Mall Parkway median under the Light Rail guideway between Interstate 880 and Capitol Expressway.

The design of the Light Rail Median Landscape Project was previously completed by the architectural firm of Sugimura Finney Architects, with Reed Grandy as the Principal Landscape Architect of Record. Reed C. Grandy is now doing business as Phoenix Design Group, and the City wishes to complete the project under Reed C. Grandy as the Architect in Charge. A new contract with Reed C. Grandy, an individual doing business as Phoenix Design Group, is recommended for this purpose. Phoenix Design Group will assist City staff with project administration by obtaining required permits and agency approvals, project bidding, and construction administration including the review of requests for information, submittals, and change orders from the contractor. Staff negotiated a scope and fee for these services, not to exceed \$175,000, which is considered reasonable for the work.

Fiscal Impact: None. Sufficient funds are available in the project budget for these services.

Recommendation: Approve a consultant agreement with Reed C. Grandy doing business as Phoenix Design Group in the amount of \$175,000 for the Light Rail Median Landscaping Project No. 2001, for a term through December 31, 2017.

- * **12. Approve Amendment No. 3 to the Agreement with TerraCare Associates to Add Two New Service Areas to the City of Milpitas Streetscape Landscape Maintenance and Repair Services Agreement for the Annual Increase Amount of \$6,420 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On July 1, 2012 the City entered into a five-year contract with TerraCare Associates to provide streetscape landscape maintenance and repair services at various City of Milpitas locations. The total annual cost for these services was \$125,218.00.

Staff now recommends that the City Council approve expanding the maintenance services to include the Tasman median at McCarthy Blvd. and the Sinclair Horizon walking path located in Landscape Lighting Maintenance District LLMD No. 98-1 along the Berryessa Creek Trail. The annual cost for the additional maintenance services for these two service areas is \$6,420 per year, per the quotes from TerraCare, which is reasonable for the level of the work specified in the contract. Maintenance costs for these two service areas would be funded through LLMD No. 98-1 and General Fund Landscape Maintenance Contracted Service Budgets.

Fiscal Impact: None. There are sufficient funds in LLMD No. 98-1 and General Fund budgets for the maintenance service.

Recommendation: Approve Amendment No. 3 to the Agreement with TerraCare Associates to add two new service areas to the City of Milpitas Streetscape Landscape Maintenance and Repair Services agreement for the annual increase amount of \$6,420.

XVIII. DEMAND

- * **13. Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for Not-to-exceed \$90,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: On May 15, 2007, pursuant to Municipal Code section 1-2-3.13 Standardization, the City Council approved Badger water meters as the standard brand of water meter for the City of Milpitas and, per Municipal Code Section 1-2-5.04-4, approved National Meter and Automation as the sole source distributor for Badger water meters for five years. On February 5, 2013, City Council approved the extension and reinstated National Meter and Automation as the Sole Source distributor for Badger water meter products for the City of Milpitas. The proposed

purchase will allow staff to complete customer orders and restock the supplies that have been depleted.

Fiscal Impact: None. The purchase is a programmed expense approved in the FY 2013-14 budget for Utility Maintenance.

Recommendation: Approve the purchase of assorted Badger water meters from National Meter and Automation for the not-to-exceed amount of \$90,000.

XIX. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND MILPITAS HOUSING AUTHORITY

HA3. Conduct Public Hearing and Consider Approval of Assignment and Assumption Agreement and First Amended and Restated Disposition and Development Agreement to Sell 5.94 acres of Land Located at 1504-1620 South Main Street for an Affordable Senior Facility Development (Staff Contact: Felix Reliford, 408-586-3071)

Background: The Milpitas Redevelopment Agency and South Main Senior Lifestyle, LLC, a California limited liability company (the "Applicant") entered into a Disposition and Development Agreement dated August 18, 2009, which was amended on October 18, 2009 ("Initial Agreement"). The Initial Agreement provided for the disposition of approximately 5.94 gross acres known as Santa Clara County Assessor's Parcel Nos. 086-22-027, 086-22-028, 086-22-046, 086-22-047, and 086-22-048 located at 1504-1620 South Main Street (the "Property") to the Applicant for a two-phased senior residential complex containing 387 residential units (with 63 low-income units), a new City street and other City rights-of-way, common use facilities, parking, landscaping, and related on and off-site improvements ("Initial Project"). The Property was entitled for development in accordance with a set of entitlements approved by the City Council pursuant to Resolution No. 08-004 of February 5, 2008, which included Site Development Permit (SZ2007-18), Conditional Use Permit (UP2007-15), Density Bonus (DB08-0001) and Vesting Tentative Map (MI2007-2).

Because of several factors, the Initial Project has become financially unfeasible. These factors include the dissolution of redevelopment agencies (the Initial Agreement provided a \$7.7 million grant to the Initial Project that is no longer available), downturn in the economy, more stringent debt and equity underwriting requirements which make borrowing money more difficult for the Applicant, and 80% AMI (Area Median Income) congregate care/assisted living units which are not marketable. The Applicant has submitted a revised Project proposal for consideration, as described in detail below ("Revised Project"), which if approved would require an amendment to the Initial Agreement.

As explained below, the Milpitas Housing Authority ("MHA"), as the housing successor to the dissolved Redevelopment Agency, now owns the Property and has the statutory authority to assume and amend the Initial Agreement to implement the Revised Project on the Property. On October 1 2013, the MHA Board held a study session on the Revised Project and associated amendments to the Initial Agreement. The MHA directed Staff to proceed with the negotiation and draft amendment to the Initial Agreement and tentatively return to the MHA Board on November 5 or 19, 2013 for review and consideration of a First Amended and Restated Disposition and Development Agreement (the "Amended DDA") to amend the Initial Agreement.

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. On October 23, 2013, the Planning Commission reviewed the proposed Revised Project, and the proposed disposition of the Property by the MHA to the Applicant for development of the Revised Project in accordance with the Amended DDA, pursuant to Government Code Section 65402(c) and adopted Resolution No. 13-027 with findings that the

disposition of the property and development of the 389 senior unit Revised Project are in conformance with the City's General Plan and Mid-Town Specific Plan.

REVISED PROJECT

The Revised Project under the proposed Amended DDA consists of conveyance by MHA of the Property to the Applicant at a nominal purchase price for the development of a senior retirement community. The Revised Project would consist of 389 units of rental housing for seniors 62 years of age and older that offers a continuum of care and services allowing residents to age in place. The Revised Project would be constructed in two phases. Both phases of the development (Phase 1 - 199 congregate care and assisted living units and Phase 2 - 190 active independent living units) would have full high end amenities and features. A total of 48 senior units would be affordable to very-low income seniors at 50% of AMI (Area Median Income). The first phase would have 10 very low-income affordable units and the second phase would have 38 very low-income affordable units. The Revised Project would be unique and currently does not exist within the South Bay Area. The Revised Project would also provide property, sales and special taxes to the City annually, \$2.5 million of public infrastructure improvements and generate temporary construction and permanent jobs. Also, the previous \$7.7 million grant obligation in the Initial Agreement would be eliminated.

HEALTH AND SAFETY CODE SECTION 33433 REPORT AND FINDINGS

A City consultant, Economic & Planning Systems, Inc., prepared a report in compliance with State law (Health and Safety Code Section 33433) outlining the cost of the proposed Project to the MHA, the estimated value of the land to be conveyed, and an explanation of how the disposition of the Property will assist in the elimination of blight (the "Summary Report"). A copy of the Summary Report is provided as an attachment. The Summary Report documents that the fair reuse value of the Property with the conditions, covenants, and development costs required by the Amended DDA for the sale of the Property (including the provision of the 48 very low-income affordable units) is zero dollars, thereby supporting the nominal purchase price contained in the Amended DDA. In addition to action on the Amended DDA by the MHA, under Health and Safety Code Section 33433 the City Council must also consider making statutory findings regarding the sale of the Property pursuant to the Amended DDA and consider approving execution of the Amended DDA by the MHA.

AGREEMENTS

The Initial Agreement was executed between the Milpitas Redevelopment Agency and the Applicant. With the dissolution of the Milpitas Redevelopment Agency, the City previously elected and the Milpitas Housing Authority agreed to take on the responsibility of performing the housing functions of the dissolved Milpitas Redevelopment Agency, and accepted ownership of the Property. If the Council, acting in separate legal capacities as the MHA Board and the Board of the Successor Agency to the dissolved Redevelopment Agency, would like to move forward with the Revised Project, the Initial Agreement should be assigned from the Successor Agency of the Milpitas Redevelopment Agency to the Milpitas Housing Authority. Additionally, the Initial Agreement would need to be amended by the Milpitas Housing Authority (with companion City Council findings and approval) in the form of the Amended DDA to reflect the Revised Project. The proposed Amended DDA includes a Schedule of Performance requiring the Applicant to meet certain pre-disposition milestones and commence construction of the first phase of the Revised Project in the next two years. As a condition of closing for the Property and commencement of first phase construction, the Applicant would be required to submit a Financing Plan, Service Plan, and Operating Plan for MHA's review and approval. Further, the Applicant must receive all necessary entitlements, pay applicable permit review and inspection fee, and provide evidence of insurance prior to the MHA's conveyance of the Property and the Applicant's commencement of first phase construction.

CEQA

A Program Environmental Impact Report (the "EIR") was prepared and certified (SCH#2000092027) for the Midtown Specific Plan on March 19, 2002. The EIR assumed

development of this Property for residential uses similar to the proposed Revised Project, and the Planning Commission has found that the Revised Project is consistent with the City's General Plan and the Midtown Specific Plan.

No new environmental document is required pursuant to CEQA in connection with the Amended and Restated DDA and the disposition and development of the Property in accordance with the Amended and Restated DDA. Government Code Section 65457 (CEQA Guidelines Section 15182) provides a statutory exemption for residential projects that are consistent with a specific plan for which an EIR was certified after January 1, 1980. Additionally, CEQA Guidelines Section 15168(c)(2) provides that, if the Revised Project is within the scope of the Midtown Specific Plan EIR, no new environmental document is required so long as no new effects could occur or no new mitigation measures are required.

There are no substantial changes in the Revised Project or in the circumstances in which the Revised Project will be undertaken that are different from those reviewed in the Midtown Specific Plan EIR, nor does new information show that any additional environmental impacts will occur. The attached memo from TJKM Transportation Consultants shows that the Revised Project will generate somewhat less peak hour traffic than the development assumed on the site in the Midtown Specific Plan EIR and substantially less peak hour traffic than the Trammell Crow development previously approved on the site, resulting in substantially equivalent or lower air quality and greenhouse gas impacts (see attached letter from Environ consultants). Development capacity in the Midtown Specific Plan Area still exists, and the area has not reached full build out. There are 5,228 residential units planned for the area, and 2,312 have been constructed and/or permitted. Specifically, of the 1,680 residential units planned for the South Main Street/Abel area, 1,270 have been constructed and/or permitted. Access and circulation to the area remain the same as envisioned in the EIR, as well as infrastructure and utility capacity. The project will be built in accordance with the development standards and design guidelines of the Midtown Specific Plan. Mitigation measures required as part of the Midtown Specific Plan EIR are hereby incorporated by reference and apply to the Amended DDA. The Revised Project is therefore statutorily exempt from CEQA as provided in Guidelines Section 15182. Further, because no new effects could occur, no new mitigation measures are required, and the Revised Project is within the scope of the Midtown Specific Plan EIR, no new environmental document is required.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Disposition and Development Agreement
- C. Assignment and Assumption Agreement
- D. Section 33433 Report
- E. Traffic Air Quality/Greenhouse Gas Analysis
- F. Letter from Resident
- G. Planning Commission Minutes 10-23-13

Recommendations:

1. Open the public hearing for comments, then move to close the hearing.
2. Adopt a joint resolution of the City Council, the Milpitas Housing Authority, and the Successor Agency of the Redevelopment Agency approving (i) an Assignment and Assumption Agreement for the Initial Disposition and Development Agreement for the real property of the Milpitas Housing Authority located at 1504-1620 South Main Street in Milpitas, CA; (ii) a Summary Report required by California Health and Safety Code Section 33433; (iii) the First Amended and Restated Disposition and Development Agreement and the sale of such real property to South Main Senior Lifestyle, LLC; and (iv) adopting findings in connection with such sale.

XX. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND ECONOMIC DEVELOPMENT CORPORATION

EDC3. Status Report on McCandless Property Park and Potential School (Staff Contact: Tom Williams, 408-586-3050)

Background: At the October 15, 2013 Milpitas Successor Agency meeting, staff was directed to commence with a joint use agreement for a City park and a K-8 school in partnership with the Milpitas Unified School District (MUSD).

The Milpitas Economic Development Corporation (EDC) acquired the subject 10.89 acre site with a combination of development impact fees and redevelopment property tax increment revenue. As previously discussed, the goal of developing a park and school on the McCandless Property has been a vision of the City Council for several years. Now, the ability of the City and MUSD to move forward with a joint use development has been strained as a result of the State of California eliminating the Milpitas Redevelopment Agency and Santa Clara County attempting to retroactively “claw back” the funds used by the city to acquire the McCandless property.

On October 24, 2013, a joint meeting between the City and MUSD representatives was held to discuss mutual objectives and how best to proceed. At that meeting, it was agreed that both entities would request their outside legal counsel to commence with drafting provisions of a joint use agreement as if the property disposition issue was resolved.

Santa Clara County is attempting to rescind the property tax revenue used to purchase the land for the park and school. This issue constrains the ability of the city to sell a portion of the property to the School District. Despite this challenge, City and MUSD representatives are seeking progress while working together. Legal counsel representing both parties are in discussion, but at this time there is no reportable progress.

The City continues to prepare the site for development of a school and park, while issues continue to be discussed. The City of Milpitas is funding the current demolition of the existing buildings, commenced recently and should be completed by the end of the year.

Recommendation: Receive a report from staff and continue developing a joint use agreement in cooperation with Milpitas Unified School District.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULE COUNCIL MEETING
TUESDAY, DECEMBER 3, 2013 AT 7:00 P.M.**