



## MILPITAS PLANNING COMMISSION STAFF REPORT

October 22, 2014

---

**APPLICATION:** **South Main Senior Lifestyles – TP14-0001, SD14-0006, DB14-0001**

A request for a Site Development Permit, Vesting Minor Tentative Map, and Density Bonus for the construction of Phase 1 of a senior assisted living and congregate care facility including a new 5-story residential building with 199 rental units (including 10 very low-income units) and associated site improvements.

**RECOMMENDATION:** **Staff recommends that the Planning Commission:**

Adopt Resolution No. 14-033 recommending the City Council approve Vesting Minor Tentative Map No. TP14-0001, Site Development Permit No. SD14-0006, and Density Bonus No. DB14-0001 for the construction of Phase 1 of a senior assisted living and congregate care facility including a new 5-story residential building with 199 rental units (including 10 very low-income units) and associated site improvements.

**LOCATION:**

Address/APN: 1504-1620 South Main Street, APNs 086-22-027, -028, -047, -048  
Area of City: Midtown Specific Plan Area

**PEOPLE:**

Project Applicant: Joseph Callahan, South Main Senior Lifestyles, LLC  
Consultant(s): James Burns, Collaborative Design Architects  
Property/Business Owner: City of Milpitas Housing Authority  
Project Planner: Shaunn Mendrin, Senior Planner

**LAND USE:**

General Plan Designation: Multi-Family Residential, Very High Density  
Zoning District: Multi-Family Residential, Very High Density (R4)  
Overlay District: TOD Overlay (TOD), Site and Architectural Overlay (-S)

**ENVIRONMENTAL:** A finding is proposed that this project is within the program of the Midtown Specific Plan EIR and no further action is required.

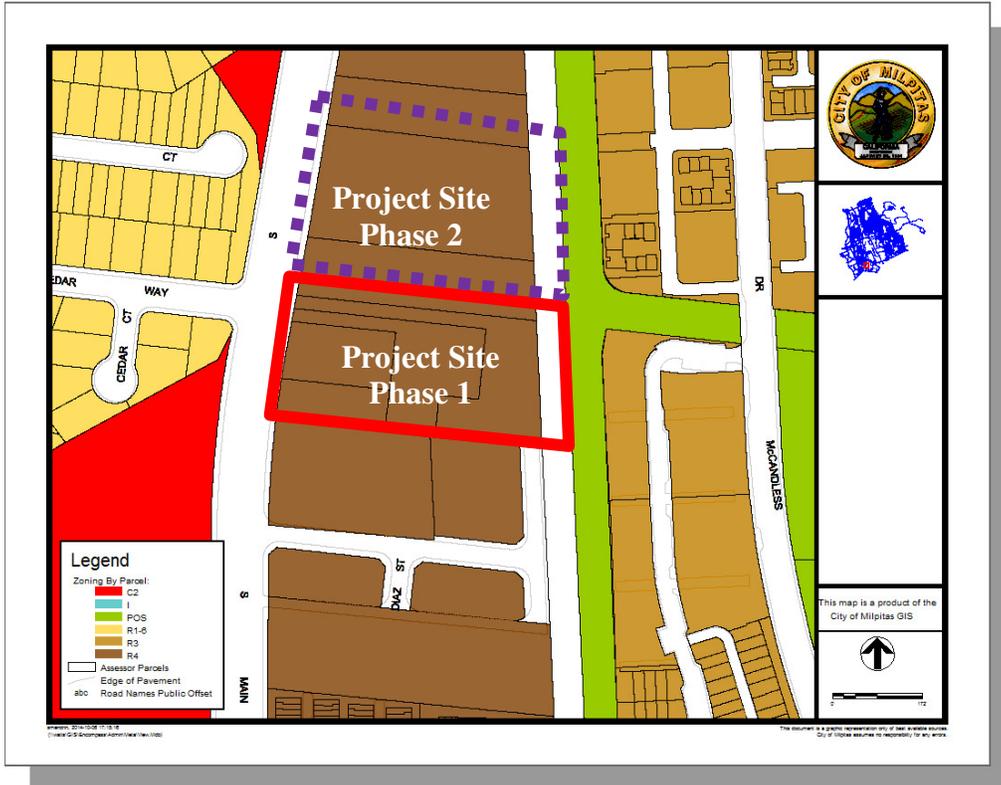
**EXECUTIVE SUMMARY**

---

This project includes the Phase 1 construction of a four-story, 220,187 square foot senior assisted living and congregate care facility with a total of 199 rental units. Ten units will be provided at below market rate and available to very low income senior households over 62 years old. A below-grade parking structure will provide parking for the residents, guests and employees. A Vesting Minor Tentative Map is proposed to create three lots; two lots will be dedicated for public right-of-way and the remaining lot will accommodate construction of the facility. Site improvements include complete street improvements along South Main Street consistent with the Midtown Specific Plan; construction of two new public streets to be maintained by the applicant;

and on-site landscape, utility and infrastructure improvements. A second phase with 190 units will be proposed in the future.

### Map 1 Project Location



### Map 2 Project Site



## **BACKGROUND**

---

### ***History***

The Milpitas Redevelopment Agency and South Main Senior Lifestyles, LLC, a California limited liability company entered into a Disposition and Development Agreement dated August 18, 2009, which was amended on October 18, 2009. The Initial Agreement provided for the disposition of approximately 5.94 gross acres located at 1504-1620 South Main Street (“the Property”) to the applicant for a two-phased senior congregate care and assisted living facility. The Property was previously entitled for development in accordance with a set of entitlements approved by the City Council pursuant to Resolution No. 08-004 on 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).

However, the initial project has become financially unfeasible. The dissolution of redevelopment agencies, 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 have factored into the delay. The applicant has now submitted a revised project proposal for consideration.

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 return to the MHA Board on November 19, 2013 for review and consideration of a First Amended and Restated Disposition and Development Agreement to amend the Initial Agreement. The MHA approved the First Amended and Restated Disposition and Development Agreement on November 19, 2013, allowing the project to move forward for entitlement consideration.

### ***The Application***

The following is a summary of the applicant’s request:

- *Site Development Permit:* To evaluate the site layout, architecture, massing, landscaping and other improvements for the project.
- *Minor Tentative Map:* To create three lots for the construction of the facility and public streets.
- *Density Bonus:* To increase the allowable density from 181 rental units to 199 rental units.

## **PROJECT DESCRIPTION**

---

### ***Overview***

The project includes the construction of 199 rental units located in a four-story, 220,000 square foot building. The project is a senior retirement community that will provide congregate care assisted living services. The project will be developed over time in phases. This phase 1 development will provide ten units at below-market rental rates for occupancy by very low income senior households and 189 units at market rental rates. All units will be designed to be

accessible to the disabled and licensed for assisted living, allowing congregate care and enabling residents to age in place.

### ***Location and Context***

The property is located at 1504-1620 South Main Street along the eastern side of the street, near the intersection with Cedar Way. The gross land area of the entire site is approximately 5.9 acres. Although the first phase will only include development of approximately 3.02 acres. The first phase includes the subdivision of two parcels for public streets and one parcel for the development. The property is located within the Midtown Specific Plan Area. The property is currently vacant and is adjacent to other residential, light industrial and commercial uses. The Union Pacific Railroad tracks are located to the east of the site. Vicinity and location maps of the subject site location are included on the previous page.

## **PROJECT ANALYSIS**

---

### ***General Plan and Zoning Conformance and Density Bonus***

The project site has a General Plan land use designation of Multi-Family Residential, Very High Density and is zoned R-4, TOD, Multi-Family Residential, Very High Density with a Transit Oriented Development Overlay. These designations allow up to 60 units per acre, however, the applicant is also requesting a 20% density bonus based on State Density Law when a development provides 5% of affordable units for occupancy of very low-income senior households. Based on the provision of R-4 Zoning, the site would be allowed up to 181 units at 60 units per acre at 3.02 acres. Application of the Density Bonus for Affordable Housing of 20% allows an additional 36 units for a total 217 units allowed on the site. As part of the Density Bonus an applicant is allowed up to three concessions based on the percentage and affordability of housing provided. Based on the proposed project, the applicant will be allowed one concession, see the Site and Architectural Design Section for further clarification.

The project is consistent with the General Plan designation and zoning district because the applicant is proposing a senior residential project of 199 units with 10 units targeted to households in the very low-income category. This is a permitted use in the R4 district with the application of the State Density Bonus of 20%.

### ***Climate Action Plan Conformance***

The project will be constructed with energy and water conservation measures as required by the State of California CalGreen building code requirements. The project type, size, location and density are also conducive to reducing vehicle trips and low trip generation. The project will also include shuttle service to the future BART station. Best management constructions practices will also be utilized to further reduce construction emissions. Overall, the project is consistent with the Climate Action Plan.

### ***Development Standards***

The table below demonstrates how the project is consistent with the development standards of the R-4, TOD, Multi-Family Residential, Very High Density with a Transit Oriented Development Overlay. The project is consistent with the development standards required for the R4 Zoning District. The project meets the minimum setback requirements for all sides of the building; and also meets the height requirement. The project, with density bonus, is also

consistent with the density of 60 units per acre since the bonus units are not included in the calculation. Table 1 below shows conformance with development standards.

**Table 1:**  
**Summary of Development Standards**

	<b>Standard</b>	<b>Proposed</b>	<b>Complies?</b>
<u>Setbacks (Minimum)</u>			
Front	12 feet	10 feet	Yes*
Street Side	12 feet	10 feet	Yes*
Interior	10 feet	20 feet	Yes
Rear	10 feet	40 feet	Yes
<u>Density (Maximum)</u>	60/acre	66/acre with State Density Bonus	Yes
<u>Building Height (Maximum)</u>	75 feet	68 feet	Yes
*Concession as per Density Bonus for Affordable Housing			

***Site & Architectural Design***

The project is designed in a modern and contemporary style given the unique operational aspects of the facility and site constraints. The project is designed as a single-structure with internal courtyards, atop a below grade parking structure. The building itself is designed in sections of recessed and protruding elements that will provide depth and interest along the large facades. All units have balconies that will further add depth to the recessed elements. The base of the building is comprised of masonry, glass block and stucco, and hardie-plank siding depending on the facade. The primary building materials are stucco and hardie-plank siding. The recessed elements and combination of materials will provide a richness to help break the mass of the building and provide interest (see Attachments B and D).

The site is compromised by a large PG&E utility easement running through the site, roughly along Cedar Way. Design standards require certain setbacks from this easement and have resulted in a somewhat flat façade. The architect alleviated this situation by designing the recessed elements to turn inward, towards the building, rather than outward into the easement. The roof system is comprised of a hip and flat roof comprised of simulated slate tile. Overall, staff supports the architectural design.

**Density Bonus Concession**

Density Bonus for Affordable Housing allows a developer to request concessions/incentives from the City’s Zoning code based on the affordability of the development this project will be allowed one concession (see Attachment E). The applicant has submitted a project description and request for an incentive/concession from Section XI-10-11-5.d.i (TOD-R4: Front and Street Side Setbacks) of the Zoning Code to allow a front and street setback of 10 feet.

While the above concession must be considered by the City per State Law and the Zoning Code, this type of deviation is common for larger residential in-fill developments. The requested incentive is to allow a 10 foot setback instead of the 12 foot minimum. Typically in the R4 base zoning the front and street side setbacks are a range of 10-12 feet. The current site zoning is restrictive in that it has minimum of 12 feet due to the TOD Overlay. Although the Planning Commission and City Council has to grant the incentive, the proposed 10 feet is within the range allowed in the base zone of R4.

### ***Landscaping & Open Space Design***

Landscape and open design largely consists of streetscape design along Main Street, Cedar Way, Costas Street and the pedestrian EVA. The project also includes internal courtyards, and landscaping along the base of the building.

Main Street will be designed consistent with the Midtown Design Standards and South Main Plan Line Study. The streetscape will match and be consistent with the completed portions of South Main Street including Scarlet Oak street trees, shrubs and groundcover, completed street improvements including landscaped median with Princeton Gingko as the primary tree.

Cedar Way, Costas Street and the EVA will include Frontier Elm as the street tree. The EVA will be designed as pedestrian paseo and will include stamped concrete paving, vine plantings along the building and lighting. The internal courtyards will be also be landscaped with Japanese Maples in movable pots since these active areas will be utilized for different activities. The project also includes landscaped bio-treatment areas to treat stormwater runoff prior to entering the public storm drain system. The applicant will be entering into a Maintenance Agreement to maintain the Cedar Way and Costa Street extensions and associated improvements subject to approval by the City Council. The Maintenance Agreement is currently being negotiated and finalized and will be attached to the report to City Council.

### ***Urgency Ordinance (240.2) Exception Request***

On August 26, 2014, the City Council adopted Urgency Ordinance No. 240.2 which implemented water use restrictions. Specifically as it relates to this project, the Urgency Ordinance prohibited the construction of new pools (5.03) and the use of potable water for the installation of new landscape unless it is served by Reclaimed Water (5.07). Section 5.08 of the Urgency Ordinance allows the City Council to grant exceptions as needed. The subject site is not located in an area where reclaimed water is available for use and therefore they must use potable water for all on-site irrigation. The proposed project is for senior housing and the proposed pool will provide means for low impact exercise for the residents. Since potable water is the only source for irrigation and the pool will provide opportunity for low impact exercise for the residents of the new community and staff supports the exemption request.

### ***Parking***

The parking requirements for the project have been based on the similar types of projects constructed for congregate care and assisted living. The City's Zoning Ordinance and parking requirements do not specify congregate care and assisted living facilities. Section XI-10-53.09(A)(2) states as follows:

*Uses not specified. In the case of a use not specifically mentioned in Table 53.09-1, Number of Parking Spaces Required, or elsewhere in this Chapter, the requirements for off-street*

*parking facilities shall be determined by the Planning Commission through the Interpretation process, in accordance with Section 61, Interpretation, of this Chapter, based on uses which create similar demands for off-street parking spaces. The Planning Commission may draw upon the experience of other local cities to make their decision.*

The applicant has provided information and evidence to support an overall parking ratio of 0.7 spaces per unit will be adequate. (Attachment D) This number exceeds the spaces recommended by the Institute of Traffic Engineers (ITE) Parking Generation, 4<sup>th</sup> edition, which indicates a maximum peak parking demand of roughly 0.5 spaces per unit for these types of facilities. Given the majority of the residents do not drive, and rely on assistance, this ratio seems acceptable.

The facility will contain 199 units, including 15 studios, 106 one-bedroom, and 78 two-bedroom units for a total of 277 beds and employ 65 people. For comparison use, the City of Santa Clara uses the following ratio for similar uses:

*Convalescent Homes, Rest Homes, Nursing Homes, Sanitarium, Etc. One space for every four beds plus one space for each two employees (other than the staff doctors) plus one space for each doctor assigned to the staff, but in no case less than one space per seven hundred fifty (750) square feet of gross floor area.*

Based on the bed and employee calculation only, using this similar factor, the facility would only require 69 parking spaces ( $277/4$ ) for the units, and 33 for the employees ( $65/2$ ) for a total of 102 spaces. The applicant is proposing 144 parking spaces in the below grade parking structure. These parking spaces are allocated as follows:

129 Congregate Care Units = 91 spaces (0.7 per unit)  
70 Assisted Living Units = 0 spaces (based on assisted living resident not driving)  
65 employees = 30-35 spaces (depending on peak employee times)  
Guest parking = 18-23 spaces  
**Total = 144 spaces**

Based on the evidence in the record, staff supports the methodology used to determine project requirements for congregate care and assisted living facility. It should be noted that the construction of Cedar Way and extension of Costas Street will result in additional 35 on-street parking spaces that can be used by the public and guests of the facility. These spaces are not included in the above calculation. Staff recommends the Planning Commission make the interpretation of use and approve the project based on the assumptions and methodology used for determining parking requirements.

### ***Access & Circulation***

Primary access to the site will be provided by extension of Cedar Way as a public street into the site. Cedar Way will be designed with a turning lane/turnout to provide access to the building so vehicles can pull into and under the porte cochere while allowing traffic flow to continue along Cedar Way. Costas Street will also be extended as a public street along the rear property line and connect to Cedar Way. All public streets will contain completed improvements included sidewalks and bicycle lanes. The EVA along the west side of the building will provided pedestrian and bicycle access only. Access to the parking garage and is provided from Costas Street at the rear of the building. The primary area for trash pick-up and service to the building is also provided from Costas Street. Some special design features atypical of City standards have

been incorporated into both Cedar Way and Costas Street. For this reason, the applicant has agreed to maintain these portions of the public street to be negotiated and considered by the City Council.

### **FINDINGS FOR APPROVAL (OR DENIAL)**

---

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

#### ***Minor Tentative Map Findings (Section XI-1-20.01)***

- 1. The tentative subdivision map is consistent with the Milpitas General Plan.*

The project is consistent with this finding because the proposed Minor Vesting Tentative Map will create three parcels which conforms the R4 Zoning District, and to the development standards of the General Plan. As discussed in detail above, the proposed project type, density and size are all consistent with the General Plan Land Use designation.

#### ***Site Development Permit (Section XI-10-57-03-1(F))***

- 2. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The project is consistent with this finding because the project is well designed and conforms to the development regulations of the zoning district and General Plan. The project is designed to create two new public streets to extend the circulation network in the vicinity of the project site which will increase compatibility. The building is well designed and includes varied materials with a richness and detail that will complement surrounding development. Further, the completion of street improvements along South Main Street will be help improve access around the site and implement the Specific Plan.

- 3. The project is consistent with the Milpitas Zoning Ordinance.*

The project is consistent with this finding because the project conforms to the development standards and requirements of the R4, Multi-Family Residential zoning district; the use is allowed by the Zoning District, and the project complies with other aspects of the Zoning Ordinance, such as the Density Bonus Ordinance by providing ten very low-income units.

The project conforms to the development standards required in the R4 and TOD Overlay Districts. The table below demonstrates how the Project is consistent with these development standards.

**Summary of Development Standards**

	<b>Standard</b>	<b>Proposed</b>	<b>Complies?</b>
<u>Setbacks</u> (Minimum)			
Front	12 feet	10 feet	Yes*
Street Side	12 feet	10 feet	Yes*
Interior	10 feet	20 feet	Yes
Rear	10 feet	40 feet	Yes
<u>Density</u> (Maximum)	60/acre	66/acre with State Density Bonus	Yes
<u>Building Height</u> (Maximum)	75 feet	68 feet	Yes
*Incentive as per Density Bonus for Affordable Housing			

4. *The project is consistent with the Milpitas General Plan.*

The project is consistent with this finding because of the reasons previously stated.

5. *The project is consistent with the Midtown Specific Plan.*

The project is consistent with this finding because development capacity in the Midtown Specific Plan Area still exists, and the area has not reached full build out as envisioned in the Specific Plan. 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 leaving development capacity for 410 units. Access and circulation to the project site are consistent with the vision to complete the street network with the infrastructure and utility capacity. The project will be built in accordance with the development standards and design guidelines of the Midtown Specific Plan.

***Density Bonus for Affordable Housing Developments (Section XI-10-55-15-D)***

1. *Determination of Maximum Allowable Densities. The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The base R-4 Zoning would allow up to 181 units at 60 units per acre at 3.02 acres and the application of the Density Bonus of 20% allows an additional 36 units for a total 217 units allowed on the site. The proposed project includes 199 dwelling units, which is within the allowable density with the application of the Density Bonus for Affordable Housing.

2. *Unit Type and Location. All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Redevelopment Agency modifying the requirements as to unit*

*size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

The affordable units will be dispersed throughout the project and subject to review and approval by the Planning Director and Principal Housing Officer as contained in the proposed Conditions of Approval.

3. *Agreement. Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The applicant has entered into a Disposition of Development Agreement (DDA) with the City (Housing Authority and City Council) and it was amended on November 19, 2013. The Amended DDA will serve to satisfy this requirement by imposing restrictions on the real property. In addition, the Conditions of Approval for this project will also be required to be recorded against the property. The Amended DDA may be found at the following link: [http://www.ci.milpitas.ca.gov/pdfs/council/2013/111913/item\\_ha3a.pdf](http://www.ci.milpitas.ca.gov/pdfs/council/2013/111913/item_ha3a.pdf)

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. If the City does not grant at least one (1) additional concession or incentive, in addition to a density bonus as specified in Section XI-10-54.15(E), Density Bonus Conditions, of this Chapter, the developer shall agree to, and the City shall ensure continued affordability for a minimum of ten (10) years of all lower or very low-income housing units receiving a density bonus.*

The designated affordable units will be required to remain in place for a minimum of 30 years as stated in the Conditions of Approval. One concession is allowed for the development which results in a decreased setback for the front and street side setbacks allowing 10 feet where 12 is required.

#### ***Urgency Ordinance (240.2) Exception***

The proposed project includes a new pool and landscaping with irrigation by potable water. The project site is not located adjacent to Reclaimed water making connection infeasible. All new developments are required to install landscaping as per the Zoning Code and all landscaping shall be irrigated. The proposed pool will provide an amenity for the Senior Housing Development which will provide opportunity for low impact exercise for residents.

## **ENVIRONMENTAL REVIEW**

---

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 project.

No new environmental document is required pursuant to CEQA in connection with this project and development of the Property in accordance with the adopted Disposition and Development Agreement. 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 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 project or in the circumstances in which the 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 applicant submitted a Traffic Impact Analysis prepared by TJKM Transportation Consultants, and dated May 13, 2014 shows that the project will generate less peak hour traffic than the development assumed on the site in the Midtown Specific Plan EIR and substantially less peak hour traffic than previously approved development on the site, resulting in substantially equivalent or lower air quality and greenhouse gas impacts. Development capacity in the Midtown Specific Plan Area also still exists, and the area has not reached full build out. There are 5,228 residential units planned for the entire Midtown 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, leaving capacity for an additional 410 units. 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, and South Main Street Plan Line Study. 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 because no new effects could occur, no new mitigation measures are required, and the project is within the scope of the Midtown Specific Plan EIR. Hence, no new environmental document is required.

## **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 October 10, 2014. In addition, 63 notices were sent to owners and occupants within 300 feet of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

## **CONCLUSION**

---

In summary, staff is recommending approval of this project based on its conformance with the General Plan and Zoning Ordinance; and its purpose to provide a senior congregate care and assisted living facility with ten units allocated to the very low-income group. The project meets

the standards and requirements of the City's development criteria and has illustrated that parking ratio of 0.7 per unit will be sufficient to provide adequate resident, employee and guest parking.

## **RECOMMENDATION**

---

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct Public Hearing;
2. Adopt Resolution No. 14-033 recommending that the City Council approve Vesting Minor Tentative Map No. TP14-0001, Site Development Permit No. SD14-0006, and Density Bonus No. DB14-0001 for the construction of Phase 1 of a senior assisted living and congregate care facility including a new 5-story residential building with 199 rental units (including 10 extremely low-income units) and associated site improvements.

## **ATTACHMENTS**

---

- ~~A. Resolution 14-033~~
- ~~B. Site Development Plans~~
- ~~C. Vesting Minor Tentative Map~~
- ~~D. Applicant's Statement on Parking Requirements~~
- ~~E. Project Description and Density Bonus Concession~~