CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

1/06/2015
Agenda Item No. 2

ATTACHMENT RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION

AGENDA ITEM: IX-2

MILPITAS PLANNING COMMISSION
STAFF REPORT

December 10, 2014

APPLICATION: **75 South Milpitas - Vesting Tentative Map No. MT14-0002, Conditional Use Permit No. UP14-0023, Site Development Permit No. SD14-0014 and Planned Unit Development No. PD14-0002 -** A request by SRE Development Company to consider a Vesting Tentative Map, Conditional Use Permit, Site Development Permit Amendment and Planned Unit Development for the development of the existing site to allow 25 townhouse units (5 of which are live-work units) and associated site improvements.

RECOMMENDATION: **Staff recommends that the Planning Commission:**
Adopt Resolution No. 14-036 recommending the City Council approve Vesting Tentative Map No. MT14-0002, Conditional Use Permit No. UP14-0023, Site Development Permit No. SD14-0014 and Planned Unit Development No. PD14-0002 for a 25 townhouse development multi-family residential subdivision (5 of which are live-work units) based on findings and subject to conditions of approval.

LOCATION:

Address/APN:	Los Coches/South Milpitas Blvd, APN 8628050
Area of City:	Town Center at the northwest of the South Milpitas Blvd/Los Coches intersection.

PEOPLE:

Project Applicant:	Michael Sullivan, SRE Development Company
Consultant(s):	Lauri Moffet-Fehlberg, Dahlin Group
Property/Business Owner:	SRE Development Company
Project Planner:	Shaunn Mendrin, Senior Planner

LAND USE:

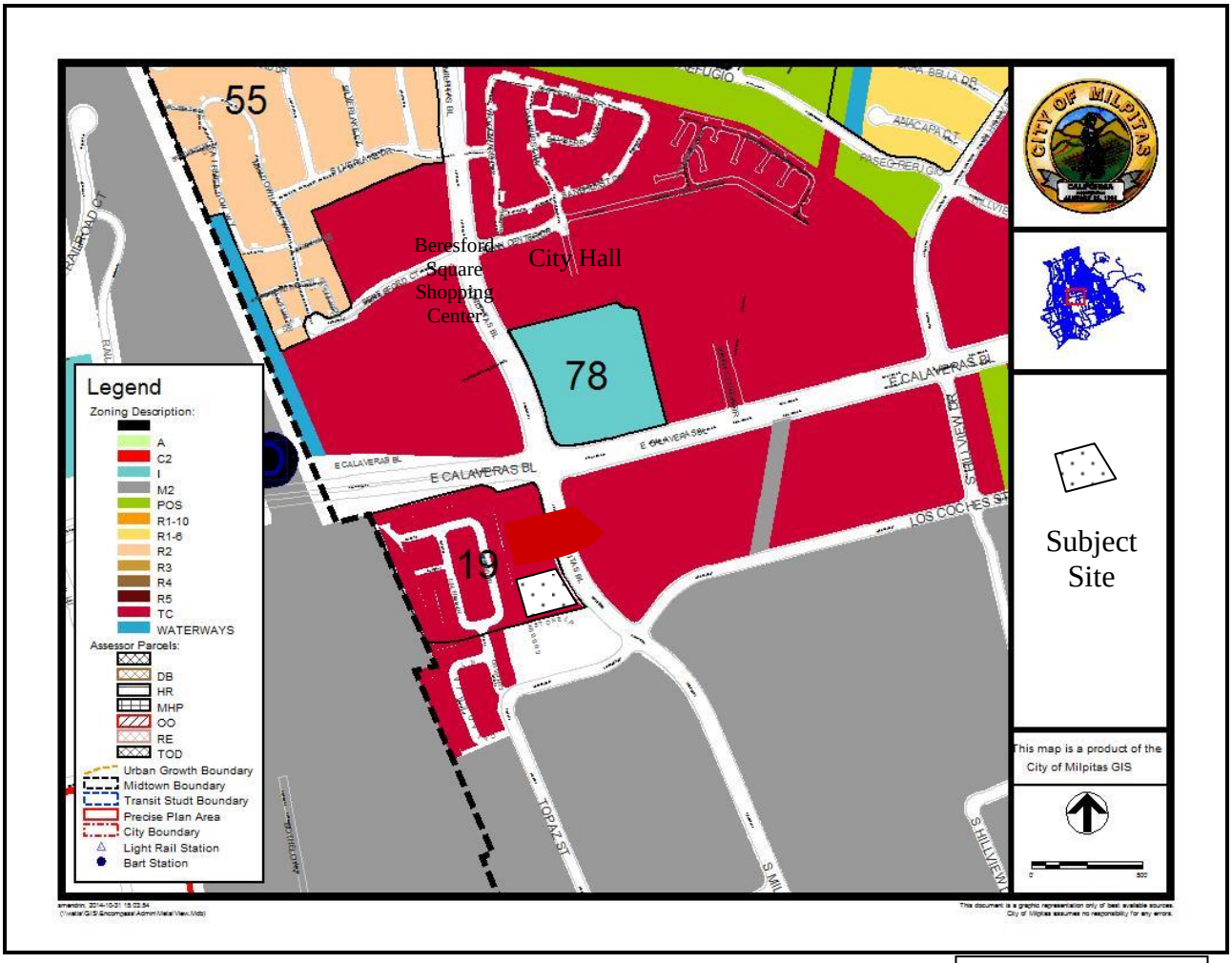
General Plan Designation:	Town Center (TWC)
Zoning District:	Town Center (TC)
Overlay District:	Site and Architectural Overlay (-S)

ENVIRONMENTAL: Categorically Exempt, Class 32 Infill Development

EXECUTIVE SUMMARY

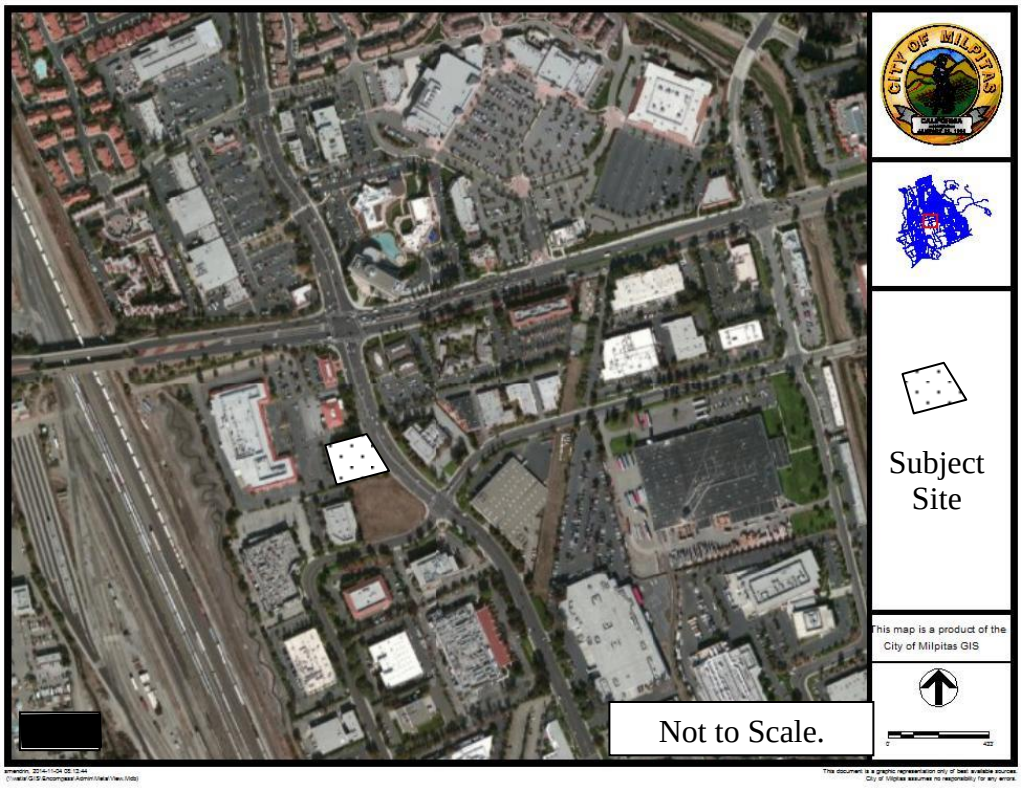
The proposed project is a request to develop an existing 1.26 acre site with a multi-family residential development with a total of 25 townhouse style units including five live-work units. The proposed project requires a Site Development Permit, Planned Unit Development and Tentative Map to create the new housing parcels and common lots. Site improvements include new main driveway, auto courts, guest parking, pedestrian improvements on Milpitas Boulevard and associated site landscaping.

Map 1
Zoning Map



Not to Scale.

Map 2
Project Site



BACKGROUND

History

A Planned Unit Development for the original parcel was approved in 1983 and amended in 1985 and 1992. The original PUD was for the commercial development of a larger site including the current two banks and the subject property and an area of land running to the west. The proposed Planned Unit Development No. PD14-0002 will rescind and replace the prior PUDs approved in 1983 and amended in 1985. The site is currently occupied with an existing two-story office building comprised of approximately 19,500 square feet, guest parking and landscaping. The subject site is adjacent to the Cobblestone development, currently under construction, and which includes 5 live-work units along South Milpitas Boulevard.

The Planning Commission conducted a duly noticed public hearing on November 12, 2014 to consider the proposed project. Two tenants from the existing office building provided public comments regarding the notification process and voiced concerns regarding relocation of their business. The Planning Commission moved to continue the item to a date uncertain to allow time for the applicant to work with the existing tenants. For additional information, please refer to the Public Comment section of the staff report (page 10). The applicant has worked diligently with the concerned tenants and has informed that each of the tenants lease concerns have been addressed.

The Application
The following is a summary of the applicant's request:

- *Site Development Permit:* To evaluate the site layout and architecture for the 25 multi-family units project.
- *Planned Unit Development* – The request for a Planned Unit Development permit to allow a reduced setback of 10 feet where 20 feet are required.
- *Major Tentative Map:* To establish the townhome lots, common lots and assign responsibility for maintaining common lots and infrastructure.

PROJECT DESCRIPTION

Overview
The proposed project includes a new 25 townhouse style neighborhood with five live-work units (three facing South Milpitas Boulevard and two along the entry driveway). The towns are three stories with a ground floor garage and two levels above. The live work units on South Milpitas Boulevard (Building 801) will have the live-work area located on the ground floor, generally level with the sidewalk. Attachment G includes the Zoning Code requirements for Live-Work Units for reference. The back two buildings (802 and 902) will have the live work main level located at the paseo level. The proposed project also includes guest parking at the rear of the property and two accessible spaces. Site landscaping will be provided in the remaining open areas and will include trees, shrubs and other planting appropriate for stormwater treatment areas. The street frontage will be enhanced to include a wider sidewalk and street tree wells.

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan
The Town Center designation, per the General Plan, states that it should provide for a variety of commercial, civic and residential uses appropriate to the Town Center's role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. The General Plan contains Land Use Principles and Policies to help enforce this intent. The table below outlines the project's consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 4
General Plan Consistency

Guiding Principles and Implementing Policies	Consistency Finding
2.a-G-2: Maintain a relatively compact urban form.	**Consistent**
2.a-G3: Provide for a variety of housing types and densities that meet the needs of individuals and families.	**Consistent**

Guiding Principles and Implementing Policies	Consistency Finding
2.a-G-4: The Town Center will be the "heart" of Milpitas' civic, cultural, business, and professional life.	**Consistent**
2.a-I-20: Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas' identity and image.	**Consistent**
2.a-I-21: Require development in the Town Center to conform to the adopted design principles/requirements of the Milpitas Redevelopment Agency.	**Consistent**
3.d-1-25: Where appropriate, require new development provide public access points to the trail system and/or contribute to staging areas.	**Consistent**
3.d-I-27: Require sidewalks on both sides of the street as a condition of development approval, where appropriate with local conditions.	**Consistent**

The above-identified General Plan principles and policies provide the basis from which staff has developed the project analysis and from which the Planning Commission must make its recommendation for project acceptance or denial. The proposed project is consistent with the General Plan in that the project as a whole provides a variety of housing types (live-work, and multi-family residential) within a more compact urban form and will be architecturally distinctive adding to Milpitas' identity and image.

Zoning Ordinance

Under the City's Site and Architecture Overlay Zoning District, the proposed project requires site development review. The project conforms to the Milpitas Zoning Ordinance due to the proposed placement of the live-work units along South Milpitas Boulevard and the entry driveway which provides the proposed commercial use near other commercial and cultural uses and acts as a compatible transition to residential.

Development Standards

The proposed project does require a Planned Unit Development (PUD) to allow a reduced front setback of 10 feet where 20 feet is required. The table below indicates the project setbacks, height, parking and density.

Table 1:
Summary of Development Standards

	Standard	Proposed	Complies?
Setbacks (Minimum)			
Front	20 feet	10 feet	Yes*
Right Side	0 feet	10 feet	Yes
Left Side	0 feet	20 feet	Yes
Rear	0 feet	40 feet	Yes
Density (Maximum)	1-40/acre	20/acre	Yes
Building Height (Maximum)	None	45.5 feet	Yes
*With approval of a Planned Unit Development			

Site & Architectural Design
The homes are a contemporary architectural style including gabled and sloped roof forms, storefront windows on the live-work units and metal awnings. Exterior materials include stucco with reveals, hardie-plank and tile. Staff has worked with the applicant to refine the architecture to its current form. There are a few remaining items that the applicant has agreed to include with submittal of building permit application including (Condition of Approval No. 19):

- Building 801 to include additional metal awnings and enhance cornice treatment for Units 31, 41 and 51;
- Recessed windows located in all stucco wall faces;
- Additional treatment of the garage face of each building to add addition material and definition of each unit; and
- Stucco treatment shall be smooth finish.

The applicant shall refine these elements and submit for staff review with the submittal of a building permit application. In regards to the site design, the applicant will add in an ADA ramp for the parking space located adjacent to building 902. This will result in a minor modification to the site design and stormwater treatment areas. The applicant has included a streetscape elevation (Sheet A-17) to demonstrate the street frontage on Milpitas Boulevard and how the project ties into the adjacent development and uses similar massing and window patterning. Overall, the architecture and the overall design and character of the project are compatible with the area.

Landscaping & Open Space Design
The proposed project includes frontage improvements along South Milpitas Blvd including landscaping and street trees. The treatment will transition from a planter strip and separated sidewalk to a larger monolithic sidewalk with tree wells since the site is closer to the more urban and active area of the Milpitas and Calaveras intersection. The front setback is 10 feet and the

area is required to accommodate some stormwater treatment areas and site utilities. Staff has included a condition for the applicant to spread out the utilities along the frontage so they are not all grouped together to allow for landscape screening. The east side of the site will provide a 6 foot setback to allow landscaping along the pedestrian trail on the adjacent Cobblestone site. The paseo between buildings 802 and 902 will be landscaped with trees and shrubs as well as the perimeter areas. The rear of the site will be landscaped with shrubs and climbing vines. The site does include a landscape maintenance easement along the rear of the site for maintenance of the westerly soundwall installed for the Orchid project. The applicant will be working with the neighboring Orchid development to accommodate the location of parking.

Open Space

The project does not provide usable common open space for residents, but does provide small balconies for each unit. However, the Municipal Code does require the applicant to pay park in-lieu fees to fulfill the open space requirements. Based on the proposed units, the current estimated park in-lieu fee is $479,955 (.19 acres x current land value). The actual amount will be based on the rate in effect at time of building permit issuance.

Parking

Parking for the project complies with the Milpitas Municipal Code. The following table summarizes the parking required and provided for the project:

Parking Standards

Parking Ordinance	**Spaces Required**	**Spaces provided**
25-2 & 3 bedroom units	50	32 - 2 car garages 18 – 2 car tandem
Guest parking (20% of total required)	10	10 uncovered off street parking on site
Live Work Guest	8	8 uncovered off street parking on site
Total	**68**	**68**

Access & Circulation

Site access will be from the existing driveway from South Milpitas Boulevard, which is shared with Union Bank of California. The driveway currently has a shared access easement which will remain in place.

Pedestrian and Bicycle Facilities

The proposed project includes replacing and improving the sidewalk along South Milpitas Boulevard fronting the project site and bicycle lanes are provided on Milpitas Boulevard. The site will provide secured bicycle parking within the garages of the units and two additional bike racks will be located on the site, one near the paseo between buildings 802 and 902 and the second near building 901. Residents will be able to access the pedestrian trail on Cobblestone through the existing driveways which are emergency vehicle access points with bollards at the end of the driveways.

FINDINGS FOR APPROVAL

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.

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

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

As detailed above, the project is consistent with this finding because the proposed placement of live-work units facing South Milpitas Blvd and the shared driveway provides a buffer to the busier street and adjacent commercial bank use. The residential units are buffered from the busier edges of the buildings. The commercial storefronts of the live-work units are compatible with neighboring businesses and the desired Town Center character along South Milpitas Blvd.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

As detailed above, the project is consistent with this finding because the site is zoned Town Center and the approved use is permitted in the Town Center designation. As described above, the development is compatible and consistent with the surrounding uses and have been found to conform to the zoning district and all development standards with a Planned Unit Development. In addition, the live-work units also conform to performance standards of the Live-Work Ordinance for the commercial component of units.

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

The project is consistent with this finding as discussed previously in the staff report, and because the approved use is allowed in the Town Center land use designation. The project furthers the goals and policies of the land use element by creating a live-work environment along South Milpitas Blvd and providing additional housing to create a compact mixed-use district in the heart of Milpitas.

Conditional Use Permit Amendment (Section XI-10-57-04-1(F))

1. *The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The proposed live-work units and building height of 42 feet will not be detrimental or injurious to the property in that the proposed use and building height is compatible with the new development adjacent to the site. In addition, the live-work units will be required to comply with the operational requirements of Zoning Code Section XI-10-13.12.

2. *The proposed use is consistent with the Milpitas General Plan; and*

See discussion above.

3. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

See discussion above.

Major Tentative Map Findings (Section XI-1-20.01)

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

As discussed above, the subdivision map complies with the TC Zoning District and to the development standards of the General Plan. The proposed project type, density and size are all consistent with the Town Center General Plan Land Use Designation.

Planned Unit Development (XI-10-54.07)

1. *Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The proposed project includes a high quality architectural style and finishes, as conditioned, not found in the immediate area and the improved streetscape improvements on Milpitas Boulevard will enhance the pedestrian realm along the project frontage. The proposed project will be providing live-work units which will provide the opportunity for residents to work from home, while reducing peak hour trips to and from the site.

2. *The proposed Planned Unit Development is consistent with the Milpitas General Plan*

The proposed development is consistent with the Town Center designation for residential density and the use and is consistent with other provisions of the General Plan as discussed above.

3. *The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction or loss of privacy that are not mitigated to acceptable levels.*

The proposed Multi-Family Residential development is consistent with the residential Cobblestone project to the south (currently under construction), and existing residential uses to the west of the site and will not have a negative impact on adjacent properties. The proposed buildings will blend with the neighborhood by providing varied setbacks and roof forms and quality materials. The existing banks across the shared access driveway will not be negatively impacted by the Multi-Family Residential buildings since they have been designed to include the live-work units on these frontages.

Urgency Ordinance (240.2) Exception Request

On August 26th, 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 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. All new developments, especially residential, need to provide landscaping and onsite amenities such as useable open space. Since potable water is the only source for irrigation and landscaping area is minimal, staff supports the exemption request and has included a condition requiring the applicant (permittee) to tie into reclaimed water if it should become available at a future date.

ENVIRONMENTAL REVIEW

The project is categorically exempt under the provisions of the California Environmental Quality Act (CEQA) per section 15332 (Exemption 32) because the project meets the conditions described in this section based on the Findings of Approval and subject to the Conditions of Approval in Attachment A.

a) The project is consistent with the general plan and policies as well as zoning designation and regulations;
b) The proposed development occurs on a site of no more than five acres substantially surrounded by urban uses;
c) The project site has no value as habitat for endangered, rare or threatened species;
d) Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality;
e) The site can be adequately served by all required utilities and public services.

There is no substantial evidence that the project will have a significant effect on the environment in that: the proposed project will result in an increase of 25 residential multi-family units which will have a negligible effect on traffic based International Traffic Engineers (ITE) estimates for the project and credit for the existing office use, since the project would result in a decrease in traffic impacts (changing from office to residential); the introduction of 25 new housing units on the project site would not result in significant noise impacts upon adjacent uses, because noise emanating from the proposed residences would be typical of the neighborhood and would not result in a significant change or increase in the existing noise environment; the project will be required to comply with Title 24 of the California Government Code which requires that the interior noise levels of multi-family units have an interior noise level of 45 dB DNL or lower; the impact of dust and exhaust generated by grading and excavation of future construction activities is temporary in nature and limited to site preparation and future construction of the new townhouse; the proposed project would have limited air quality impacts resulting from the minor pollutant emissions related to traffic generated by the proposed project; the project will not violate any water quality standards or waste discharge requirements because it will be required to comply with the standard Best Management Practices which regulates discharge into the City's storm drainage system; and the increase in runoff would not be large enough to cause flooding on- or off-site, all projects of this nature are required to comply with the City's standard of

approval relating to drainage and runoff. Therefore, it has been determined that the project is Categorically Exempt under Class 32 Infill Development.

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 November 1, 2014. In addition, 110 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, and posted at City Hall.

On November 12, 2014, The Planning Commission held a public hearing on the proposed project. At the meeting two tenants located in the existing building spoke in opposition of the project and provided a letter to the Planning Commission regarding the project. The following summarizes the applicant's comments regarding the project and an explanation is provided in italics:

- The tenants did not receive notification of the proposed project.
  Notification for the project was consistent with Title XI-10-64-04 of the Milpitas Municipal Code (Zoning Code). This included posting of a large yellow board placed near the back of sidewalk, publication of a legal ad and mailed notice to property owners and occupants (residents). Notification to commercial tenants is not required by the Zoning Code. Additionally, notification for this December 10, 2014 hearing will be posted at the main entry and mail boxes of the existing building to notify all tenants of the public hearing.

- Request that the Planning Commission require the applicant allow tenants reasonable time to relocate (six months).
  The Planning Commission continued the item to allow time for the applicant to work with the tenants regarding relocation. The project applicant has worked with the tenants and provided an update regarding the status of the leases for the project (see Attachment F). In summary, all leases are currently month-to-month and the current owner provided notices to vacate the property on October 24, 2014 and many were provided 90 days instead of the 60 day minimum. The applicant has negotiated additional time for each tenant based on their needs, some of which have been allowed to remain through February 2015 to allow time for relocation. In addition, the applicant has offered relocation assistance by providing two commercial brokers to provide assistance to the remaining tenants that have not found new locations. Mr. Sullivan's letter also indicates the current status of the leases of the remaining tenants.

- The City to provide expedited plan review for tenant improvements at a new location in Milpitas.
  The Building Department offers an expedited review process for tenant improvement plans for an additional fee and if staffing allows. The applicant may request the expedited review when they submit for their building permit.

- Don Nguyen was concerned about the amount of time they had been provided to vacate the office building.
  As stated above the applicant was provided notice (116 days) and the applicant has worked with the Don Nguyen (Dr. Ngo) to allow additional time for the relocation process.

In summary, the project applicant has provided information indicating that he is working with the tenants and has negotiated additional time for each tenant based on their needs. This has been included as a Condition of Approval for the project. In addition, he has indicated that he is committed to assisting the tenants with relocation to alternate sites within the community.

CONCLUSION

In summary, staff finds the proposed Vesting Tentative Map No. MT14-0002, Site Development Permit No. SD14-0014 and Planned Unit Development No. PD14-0002 consistent with the provisions of the General Plan and Milpitas Municipal Code. The proposed project develops the existing site with a use that is compatible with recent development and provides a transition to the existing commercial bank uses.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct Public Hearing; and
2. Adopt Resolution No. 14-036 recommending that City Council approve the Vesting Tentative Map No. MT14-0002, Conditional Use Permit No. UP14-0023, Site Development Permit No. SD14-0014 and Planned Unit Development No. PD14-0002 for a 25 townhouse development multi-family residential subdivision based on findings and subject to conditions of approval.

ATTACHMENTS

A. Resolution No. 14-036
B. Project Plans
C. Planning Commission Minutes – November 12, 2014
D. Letter from 75 S. Milpitas Tenants
E. Exhibit to Attachment D
F. Letter from Applicant, Dated November 20, 2014
G. Live-Work Unit Zoning Ordinance Section (XI-10-13.13)

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GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

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United Capital Group

Unique Opportunities for a Unique Generation

75 South Milpitas Blvd. Suite 210
Milpitas, California 95035
Bus (408) 719-9540 Fax (408) 719-9548
Website: UCG2007.COM

Date: December 11, 2014

Dear Mendrin:

I am a tenant at 75 South Milpitas Blvd. and I am writing to express my support of the development. I have been a tenant in the building since 2006 and, while I have enjoyed my tenancy, understand that the property is no longer economically viable in its current condition. I have reviewed the plans for the development and I am interested in the live/work component .

The development is well planned and I think it will improve the community. As a current tenant, I want to express my support for this project.

Thank you.

Tony Alicante
BRE No. 01787114
tony.alicante@yahoo.com
Mobile: (408) 719-9540