



MILPITAS PLANNING COMMISSION STAFF REPORT

August 28, 2019

APPLICATION:

ROBSON HOMES SINGLE-FAMILY DEVELOPMENT – 1005 NORTH PARK VICTORIA DRIVE – GP18-0001, ZA18-0003, PD18-0001, SD18-0015, MT18-0003, EA19-0003. An application for a General Plan Amendment, Zoning Amendment, Planned Unit Development, Site Development Permit, Vesting Tentative Map, and Environmental Assessment to allow development of a residential subdivision with 36 single-family homes and ten accessory dwelling units located at 1005 North Park Victoria Drive.

RECOMMENDATION:

Staff recommends that the Planning Commission open and close the public hearing, consider the Initial Study/Mitigated Negative Declaration in accordance with CEQA, and adopt Resolution 19-026, recommending approval of the above applications to the Milpitas City Council, subject to the Conditions of Approval.

PROJECT LOCATION:

*Addresses and Assessor's
Parcel Number (APN):
Area of City:*

1005 North Park Victoria Drive (029-04-040)
North of Jacklin Road, on the West side of North Park Victoria Drive

PEOPLE:

Project Applicant:

Richard Yee, Project Manager
Robson Homes, San Jose CA

Consultant(s):

Architect: *Robert Hidey Architects*, San Ramon, CA
Civil Engineer: *Civil Engineering Associates*, San Jose, CA
Landscape Architect: *Design Focus Landscape Architecture & Construction*, Ben Lomand, CA

Property/Business Owner:

Cymer Inc., Los Gatos CA

Project Planner:

Adrienne Smith, Associate Planner

LAND USE:

General Plan Designation:
Zoning District:

Single-Family Low Density (SFL)
Single-Family Residential (R1-6)

ENVIRONMENTAL: Initial Study and Mitigated Negative Declaration in accordance with the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

The application includes six entitlement requests to allow the future development of a residential subdivision with 36 single-family homes and ten accessory dwelling units, as follows:

1. General Plan Amendment GP18-0001: To change the land use designation from Single-Family Low Density (SFL) to Single-Family Medium Density (SMD); and
2. Zoning Amendment P-ZA18-0003: To amend the zoning maps to change the property zoning designation from Single-Family Residential (R1-6) to Single-Family Residential (R1-3); and
3. Planned Unit Development P-PD18-0001: To allow for variation from the standard development standards of the Municipal Zoning Code and permit a Planned Unit Development; and
4. Site Development Permit SD18-0015: To allow a 36-unit single family home development, including ten accessory dwelling units on the 4.88-acre site; and
5. Vesting Tentative Map P-MT18-0003: To establish 36 single-family home lots and to record site easements; and
6. Environmental Assessment EA19-0003: To review and assess all requested entitlements for consistency with the California Environment Quality Act (CEQA).

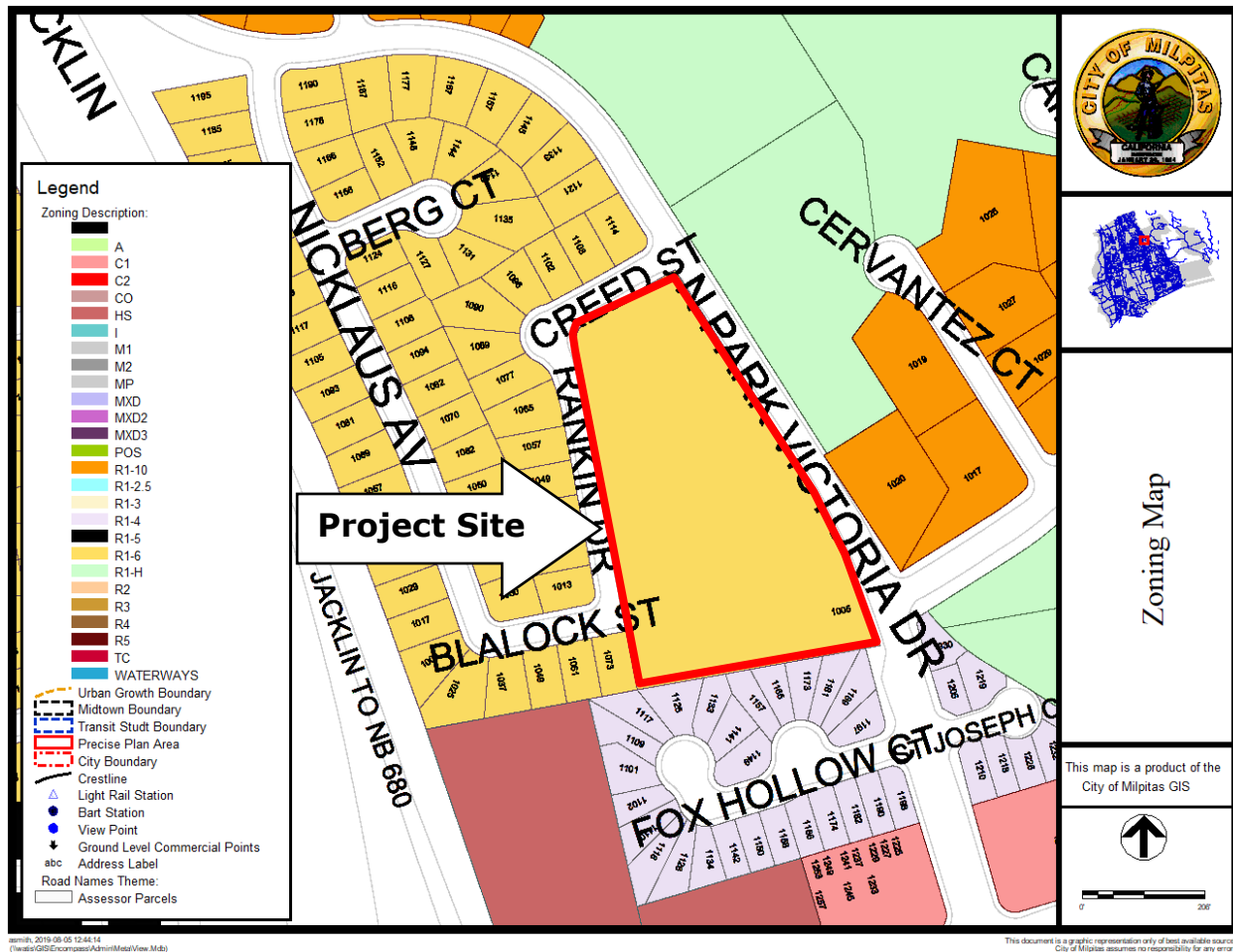
Staff has reviewed the requests outlined above and found them to be in compliance with the policies, standards, and processes outlined in the City of Milpitas General Plan, Zoning Ordinance and Municipal Code. The balance of this report provides specific details regarding each of these requests.

Staff recommends that the Planning Commission open and close the public hearing, consider the Initial Study and Mitigated Negative Declaration, and adopt Resolution No. 19-026, recommending approval of the above applications to the Milpitas City Council, subject to the conditions of approval included in at Exhibit 1 of the above-referenced resolution.

Map 1 **Project Location**



Map 2 Zoning Map



BACKGROUND

History

On November 18, 2018, Robson Homes submitted an application for the above-referenced General Plan and zoning amendments as well as a Planned Unit Development, Site Development permit, Vesting Tentative Map and an Environmental Assessment to allow development of a residential subdivision with 36-unit single-family homes and ten accessory dwelling units (ADUs).

PROJECT DESCRIPTION

Overview

The project applicant is requesting approval of a General Plan Amendment, Zoning Amendment, Planned Unit Development, Site Development Permit, Vesting Tentative Map, and Environmental Assessment for the future development of a residential subdivision with 36 two-story, single-family homes ranging in floor areas of approximately 2,500-2,900 square feet. All homes will be located on individual lots on an approximately 4.88-acre parcel. Ten of the lots will include ADUs, approximately 485 square feet in size, located above detached two-car garages. The project

includes 24 on-street guest parking spaces and approximately 78,500 square feet of landscaped area. The scope of work includes associated landscaping and open space, parking, circulation, and infrastructure improvements, as well as the demolition of an existing abandoned, single-family home.

Location and Context

The proposed project would be located on an approximately 4.88-gross acre site located in northern Milpitas in an area consisting primarily of residential and commercial uses. The property is currently zoned as Single-Family Residential (R1-6). The project site is bounded by Creed Street to the north, North Park Victoria Drive to the east, residential uses to the south, and Rankin Drive and residential uses to the west.

The project site, which gradually slopes downward from the southeastern corner approximately 14 to 18 feet, is vacant except for an abandoned, fire-damaged single-story house (proposed to be demolished) and associated improvements at the southeast corner. The existing house would be demolished to accommodate the proposed new development. Table 1 below summarizes the project site's land use designation and surrounding uses:

Table 1: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing Uses
Subject Site	Single-Family Low Density (SFL) <i>With amendment: Single-Family Medium Density (SMD)</i>	Single-Family Residential (R1-6) <i>With amendment: Single-Family Residential (R1-3)</i>	Residential/Vacant Land
North	Single-Family Low Density (SFL)	Single-Family Residential (R1-6)	Single-Family Residential
South	Single-Family Medium Density (SMD)	Single-Family Residential (R1-4)	Single-Family Residential
East	Hillside/Single-Family Low Density (SFL)	Single-Family Residential –Hillside (R1-H) and Single-Family Residential (R1-10)	Vacant Land/Single-Family Residential
West	Single-Family Low Density (SFL)	Single-Family Residential (R1-6)	Single-Family Residential

Please see above Maps 1 and 2 for additional details.

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan Conformance

The current General Plan land use designation for the project site is Single-Family Low Density (SFL), which allows 3-5 housing units per gross acre. The applicant is requesting a General Plan Amendment to Single-Family Medium Density (SMD), which allows 6-15 housing units per gross acre, because the project proposes a density of 7.4 housing units per gross acre, and exceeds the density of the SFL land use designation. The SMD designation states that all housing units are to be individually owned, either on separate lots or as part of a clustered Planned Unit Development. Developments with densities ranging from 7-10 units per acre may be approved only if proposals are found to be consistent with policies and programs of the General Plan and compatible with the surrounding neighborhood.

The General Plan designations of the surrounding properties are Hillside, SFL and SMD. Specifically, the Fox Hollow subdivision that borders the southern end of the project site is designated as SMD. The proposed General Plan amendment would then be a matter of extending an already existing land use designation northward and would result in housing unit density consistency between the two subdivisions.

With the proposed General Plan amendment, the project is in conformance with the following applicable policies and standards in the City's General Plan, as outlined in Table 2 on the following page.

Table 2: General Plan Consistency

Guiding Principal/Policy	Conformance
<i>2.a-G-3</i> <i>Provide for a variety of housing types and densities that meet the needs of individuals and families.</i>	Consistent. The project includes both larger single-family homes and smaller ADUs to meet the housing needs of both families and individuals.
<i>2.a I-2</i> <i>Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.</i>	Consistent. The proposed project is an infill development located on a vacant parcel of land and will not require the further extension of any additional City-provided urban services into outlying areas.
<i>2.a-I-17</i> <i>Foster community pride and growth through beautification of existing and future development.</i>	Consistent. The development proposes to beautify a vacant parcel of land by building a new subdivision of homes of quality design and craftsmanship.
<i>2.a-I-119</i> <i>Use zoning for new residential developments to encourage a variety and mix in housing types and costs.</i>	Consistent. The project proposes both single-family homes and ten smaller-scaled studio-style accessory dwelling units (ADUs), which provides neighborhood diversity in housing type and cost.
<i>3.d-I-9</i> <i>Require developers to make new projects as bicycle and pedestrian “friendly” as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding civic, recreation, education, work, and retail centers.</i>	Consistent. The proposed project includes the construction of new sidewalks on both sides of the new internal private street and a new sidewalk running the eastern, northern and western boundaries of the project site. The project will also retain the existing southbound bike lane on North Park Victoria Drive.
<i>3.d-I-12</i> <i>Design streets to include detached sidewalks with planting strips or wider, attached sidewalks with tree-wells to encourage pedestrian use and safety, as well as to remove barriers and increase accessibility.</i>	Consistent. The proposed project includes a new sidewalk running the eastern boundary of the site along North Park Victoria Drive including an outer planting strip for increased pedestrian safety. The project also includes pedestrian connectivity to North Park Victoria Drive via a footpath located at the southeast corner of the site.

Zoning Conformance

The project site is currently zoned Single-Family Residential (R1-6). The purpose and intent of the R1 zone is to stabilize and protect the residential characteristics of the zoning district and to promote and encourage a suitable environment for family life. The applicant seeks a minor zoning map amendment from R1-6 to R1-3 to allow a reduced minimum lot size. Since the minimum lot size for the R1-6 zone is 6,000 square feet and the smallest proposed lot in the project subdivision is 3,500 square feet, the R1-3 lot minimum of 3,000 square feet will accommodate the project's range of lot sizes. The surrounding property zoning designations range from R1-4 to R1-10. Specifically, the Fox Hollow subdivision that borders the southern end of the project site is zoned R1-4, and requires a lot size minimum of 4,000 square feet. In application, the proposed project zoning map amendment would result in a gradual transition in minimum lot sizes between the two subdivisions.

For the purpose of calculating dwelling unit density, only the proposed 36 single-family homes have been counted which amount to a proposed density of 7.4 dwelling units per gross acre. Even though the requested zoning map amendment would change the zoning designation R1-6 to R1-3, the permitted dwelling unit density is the same across all R1 zoning: One dwelling unit/lot and 3-15 dwelling units per gross acre. At a proposed 7.4 dwelling units per acre, the project conforms to the zoning ordinance. The project's adherence to additional development standards is discussed in Table 3.

The proposed zoning maps amendment is referenced in the attached draft Resolution 19-026, however, staff anticipate this amendment will be adopted by ordinance. The ordinance will be substantially the same in substance as that reflected in draft Resolution 19-026, but will be embodied in an ordinance format that will be presented to Milpitas City Council for consideration.

Planned Unit Development

The purpose of the Planned Unit Development (PUD) is to allow diversification and flexibility in the relationships of various buildings, structures, land uses, open spaces and other features associated with large mixed-use development. PUDs encourage flexibility of site planning and land uses to create desirable environments that otherwise may not be achieved under conventional zoning requirements for large developments.

The applicant requests PUD zoning to accommodate reduced setbacks from the minimum standards required by the R1-3 zoning designation. Infill development projects often present unique site planning challenges. Since the project is on an irregular-shaped lot, development of the site as a PUD will allow the efficient use of land and the provision of sufficient private yard space and public improvements such as streets, sidewalks and landscape strips. The requested reduced setbacks do not apply to all lots in all cases, but mainly to those lots irregular in shape due to particular site conditions such as street curvature.

As a project condition of approval, the applicant will provide a detailed description of required minimum setbacks and any other applicable requirements to ensure that over time, the lots and homes adhere to the intent of the development design.

Table 3: Summary of R1-3 Development Standards

Standard (R1-3 (PUD))	Required	Proposed	Complies?
Lot Area Minimum	3,000	3,540 - 5,787 square feet	Y
Lot Width Min	30 feet	40.4 feet – 55 feet	Y
Lot Density (Min/Max)	1 dwelling unit/lot and 3-15 units/gross acre	1 dwelling unit/lot and 7.4 units/gross acre	Y
Front Yard Setback	20 feet	6.8 feet – 15 feet	Y – <i>with approved PUD</i>
Side Yard Setback (Interior) Min	One side 5 feet	4 feet – 8.1 feet	Y – all units have at least one side yard setback of 5 feet
Street Side Yard Setback Min	10 feet	6 feet – 15.4 feet	Y – <i>with approved PUD</i>
Rear Yard Setback, Min (two stories or greater)	20 feet	12 feet – 25 feet	Y – <i>with approved PUD</i>
Lot Coverage	No more than 50% of the front width of the front yard setback may be paved	50% or less	Y

Subdivision Ordinance

The project's form, content and dedications of the proposed tract map are consistent with the provisions in Title XI, Chapter 1, Section 4 of the City's Municipal Code, as set forth in the attached Resolution 19-026. Vesting Tentative Maps require approval of a Resolution by the Planning Commission recommending final approval by the City Council.

Proposed Project Details

The Planning Commission may use the following information in making a recommendation to the City Council:

Parking

The Milpitas Zoning Ordinance requires three off-street parking spaces for a four-bedroom home. As noted in Table 4 below, all of the residences include a two-car garage and one to two private driveway spaces depending on the home. Per State Bill 1069, dedicated parking is not required for accessory dwelling units (ADUs) located within one-half mile of public transit. The project site meets this exemption, as it is located 0.2 miles away from a bus stop at North Park Victoria Drive and Daniel Court.

The project requires guest parking spaces calculated at 20% of the total required 108 parking spaces for the development, which amounts to 22 spaces. The project is proposing 24 on-street guest spaces overall throughout the development, which will be clearly identified by site signage and subject to management by the development's homeowner's association. The project will also include 31 on-street public parking spaces, including seven spaces on Rankin Drive, three spaces on Creed Street and 21 spaces in the area adjacent to the existing southbound bike lane along North Park Victoria Drive.

Traffic and Pedestrian Circulation

The project site is currently undeveloped and no interior vehicular access is available. However, North Park Victoria Drive provides access to the eastern edge of the project site, and Creed Street and Rankin Drive provide access to the northern and western edges, respectively. Access into the proposed development is provided at two points, one of which is located along Rankin Drive and the other at the intersection of Rankin Drive and Blalock Street. A private interior street will provide automobile access to the majority of the residential units, with the exception of three units in the northern portion of the project site that would be accessed from Creed Street, and five units along the western border of the project site accessed from Rankin Drive.

The project proposes sidewalks on both sides of the proposed internal private street and a new sidewalk along North Park Victoria Drive. Homeowners not fronting on North Park Victoria Drive will have safe and easy access to the North Park Victoria Drive sidewalk via a pedestrian gate located at the base of the internal private street at the southeast corner of the development. The on-street parking and associated design features along North Park Victoria Drive will not affect the existing southbound bike lane. This proposed design is consistent with the existing street design on North Park Victoria north of the project site, which also allows for vehicular parking adjacent to the bike lane.

Table 4: Project Compliance with Parking

Standard	Required	Proposed	Complies?
Parking (Single-Family Homes)	3 off-street spaces for each 4 bedroom home and 1 space for each additional bedroom	2 garage spaces and 1-2 driveway spaces	Y
Parking (ADUs)	Exempt according to state law if located with one-half mile of any public transit stop	Exempt – Bus stop located 0.2 miles away at North Park Victoria Drive and Daniel Court	Y
Parking (Guest)	Projects with private garages – 20% of the total required	22 required and 24 provided	Y

Parks and Open Space

All new developments located outside of the Transit Area Specific Plan or Midtown Specific Plan areas must provide 5.0 acres of parkland for every 1,000 persons or payment of fees-in-lieu, as permitted by Article 3, Section 66477 of the Subdivision Map Act and as codified by the City of Milpitas at Milpitas Municipal Code Section XI-1-9 (*Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes*). The subdivision of land involving fifty lots or less, land dedication is not required. The applicant is electing to pay an in-lieu fee.

The parkland requirement is based upon the project's total population density and the estimated value of parkland in the City of Milpitas (currently \$2,787,840 per acre). The anticipated population density for this project is 3.75 persons per unit. The project proposes 46 dwelling units (including the accessory dwelling units (ADUs)), resulting in an estimated population of 173 persons. Based on this population estimate, the project is required to provide 0.86 acres of parkland, equivalent to approximately \$2,404,512.

Private open space including yards, setbacks and other open acres shall be credited against the parkland requirement up to a maximum of 40%. Since the proposed project includes approximately 59,094 square feet/1.36 acres of private open space in the form of private yards, the applicant is able to max out the 40% credit.

The project intends to meet the remaining parkland requirement through the payment of the parkland in-lieu fee, as outlined in Table 5 below.

Table 5: Summary of Adherence to Parkland Requirements

Project Unit Count	46
Project Population Estimate	172.50
Parkland Requirement	5 acres/1,000 people or equivalent fees-in-lieu. Currently \$2,787,840 per acre.
PARKLAND ACREAGE DUE/FEE EQUIVALENT	0.86 acres/\$2,404,512
Less Private Recreation Acreage Credit (40% Max.)	0.35 acres/\$961,804.80
TOTAL ACREAGE/FEES PROVIDED	0.52 acres/\$1,442,707.20

Landscape & Open Space Design

Each of the residential uses on the project site includes private backyards that are an average of 1,641 square feet. In total, the proposed project provides 59,094 square feet of private open space in the form of private individual yards. Additionally, the proposed project includes a total of 78,624 square feet of landscaped area, including 5,007 square feet across three bioretention areas. Six mature trees currently standing on the property will be removed and a total of 94 trees will be planted. All proposed street tree species adhere to section X-2-3.02 - Approved Street Tree List of the Milpitas Municipal Code. Detailed landscape plans, are shown on Sheets L1.1 through L4.1 of the Project Plans (See Attachment B).

Design and Architecture

The project applicant characterizes the site design and architecture of the project as reflective of the surrounding landscape and is respectful of the character of the existing neighboring homes. Complementary to the scale of the existing neighborhood, the 36 single-family homes are two stories and feature two-car garages. The site design is outward looking, with 18 of the homes fronting onto the existing neighborhood streets of Creed Street, Rankin Drive and North Park Victoria Drive. This orientation maximizes the integration of the new homes into the existing neighborhood and offers an attractive residential street frontage along North Park Victoria Drive. Further, the garages for the ten homes proposed to front onto North Park Victoria Drive are detached and oriented toward the rear of the lots with access from the internal street, thus maintaining safety and minimizing potential vehicular traffic conflicts.



Streetscape - Eastern View from Rankin Drive

The architecture of the homes includes a mixture of Spanish and Craftsman-styles featuring concrete tile roofs and facades in varying earth tone colors. The facades consist of varying combinations of stucco, board and battens, brick veneer and hardie siding. Some homes feature small second level balconies. The applicant offers further diversity in window and door types and materials, exterior light fixtures, window awnings and other architectural elements.

Each home will consist of four bedrooms – one on the ground floor and three on the second floor. The ten accessory dwelling units (ADUs) will be situated above the detached garages and offer studio-style floor plans with a combined bedroom/kitchen/living area and separate bathroom.

Grading

The proposed project will demolish the existing vacant structure and all surface pavements on the project site. The maximum depth of excavation for building pad elevations would be one to two feet from the existing grade and the maximum depth of utility trenching would be approximately 15 feet. It is anticipated that a total of 4,608 cubic yards of soil would be cut and 6,320 cubic yards would be used for fill, and therefore approximately 1,711 cubic yards of fill would be imported to the site.

Utilities

The project site is located in an urban area that is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, gas, and telecommunications infrastructure. Existing and proposed utility connections are discussed below.

Water – Water service is provided by the City of Milpitas. The proposed project would include the installation of new water lines on the site that would connect to the existing 8-inch main located within Rankin Drive and Blalock Street.

Wastewater – The San José/Santa Clara Water Pollution Control Plant (WPCP) provides wastewater treatment for Milpitas. The City maintains existing sanitary sewer lines within the vicinity of the site, including an 8-inch line within the existing streets that surround the project site on the north, east, and west sides.

A new 12-inch line will be installed within the private street areas of the north-facing properties along the southernmost private street. The existing 12-inch line that runs along the southern border of the project site will be abandoned and a new 12-inch line installed.

Stormwater – The project proposes approximately 2.68 acres (55 percent) of impervious surfaces and approximately 1.92 acres (45 percent) of pervious surfaces, consisting of landscaped areas with lawns, shrubs, and trees. Additionally, for hydromodification purposes, the proposed project includes 27 underground storage vaults for stormwater runoff under the bioretention areas, each of which holds approximately 915 cubic feet of water. A 15-inch stormwater main would connect the proposed storage vaults to the existing storm drain within Rankin Drive.

Electricity and Gas – The proposed project would include connections to the existing PG&E electricity and gas lines that run adjacent to the project site.

Climate Action Plan

The City of Milpitas adopted a Climate Action Plan (CAP) in 2013 and established Greenhouse Gas (GHG) reduction goals, policies and actions for new and existing development projects. The CAP identifies six main Action Areas with specific GHG reduction Measures, including energy, water, transportation and land use, solid waste, and off-road equipment. The proposed project is consistent with a number of CAP measures, for example, those associated with the Transportation and Land Use Action Area. The project infills an existing vacant lot already served by public transit, City services and commercial services and contributes to the City's Complete Streets goals by constructing new sidewalks throughout the project and providing shading and pedestrian safety via landscape strips. Implementation of the proposed project would not significantly increase population, vehicle trips, or vehicle miles traveled. As such, the project is in conformance with the City's Climate Action Plan.

Development Fees

In addition to the parkland in-lieu fee, the development is subject to the following fees, payable at the time of building permit:

Public Art Fee

The Project will comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. This fee is currently set at one-half of one percent of building development costs. The proposed project will pay the fee based on the construction valuation at the building permit issuance.

Affordable Housing Ordinance

Pursuant to MMC Section XII-1-3.00, all new residential development projects of ten units or more designed and intended for permanent occupancy are required to construct fifteen (15) percent of the total number of dwelling units within the development as affordable units, unless subject to an exception set forth in XI-1-4.00. All exceptions require City Council approval.

The applicant may request exceptions that include payment of fees in-lieu of the provision of affordable units on the site. The applicant has requested to pay the affordable housing fee in-lieu of constructing on-site affordable units. The affordable housing fee is currently set at \$33 per square foot. The new net residential living area is estimated at 105,715 square feet, therefore, the estimated in-lieu fee is \$3,488,595. This fee is subject to change and will be officially calculated once the net new residential living area space is finalized and the building permit application is approved. The applicant has provided a justification statement (Attachment C) outlining why the project should be granted the exception.

Prior to City Council approval to the requested exception, affirmative findings to the following must be made:

1. *The exception requested exceeds the minimum affordable requirements; and*

Applicant Justification: The applicant asserts that in paying the \$33 per square foot affordable housing in-lieu fee in combination with the project's ten proposed accessory dwelling units (ADUs) which have the potential to be affordable to renters and offer homeowners financial benefits, the applicant is exceeding the minimum affordable requirements.

Staff Analysis: The applicant is providing the minimum required fee-in-lieu in combination with ten ADUs that have the potential to be affordable by design. While the project's ADUs are not proposed to be deed restricted, thus offering no guarantee of affordability among those units placed on the rental market, there are a myriad of other benefits associated with the project's proposed ADUs. The California Department of Housing and Community Development (HCD) had identified ADUs as a valuable tool in offering a source of income for homeowners, allowing for flexible living arrangements, providing as much living space as many newly-built apartments and condominiums, but well-suited for couples, small families, friends, young people, and seniors and allowing seniors to age in place as they require more care over time.

The City has identified the potential value ADUs can provide to its residents and City Council recently adopted an amended ADU ordinance to ensure the planning and building permitting processes are more permissive. Therefore, staff agree that the exception requested exceeds the minimum affordable requirements.

2. *The community benefits exceed the project benefits.*

Applicant Justification: The applicant asserts that the community benefits exceed the project benefits because of the range of possible benefits to the community – both financial and social – that are associated with project's inclusion of the ten ADUs.

Staff Analysis: The project is providing an overall community benefit to the City in that it is the first residential development of its kind to include purpose-built ADUs as part of the overall project design. As discussed in the previous finding, there are many benefits associated with the provision of ADUs including the provision of incremental housing density while maintaining a residential character and suitability for family life. Overall, the project will demonstrate how a concentrated number of ADUs can be seamlessly integrated and appropriately scaled to a single-family home neighborhood. The project's

ADUs will also directly support the goals of the HCD and the City by increasing the number of ADUs in Milpitas. Paired with the potential financial and social community benefits associated with ADUs, staff agree the community benefits exceed the project benefits.

Based on the applicant's justification statement, the fee exception request meets the findings pursuant to MMC Section XI-1-4.00. Staff recommends the City Council approve the fee exception request. Draft findings are included in the resolution (Attachment A).

If the City Council is able to make affirmative findings for the requested exception, the developer will be allowed to pay an in-lieu fee (currently \$33.00 per square foot) rather than designating seven affordable units on the site. The resolution will include a condition of approval to clarify this requirement (see Attachment A).

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.

General Plan Amendment

To approve the General Plan Amendment, the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-57.02:

1. *The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.*

The requested General Plan amendment will change the land use designation of the project site from Single-Family Low Density (SFL) to Single-Family Medium Density (SMD) thereby increasing the density range from 3-5 dwelling units/acre to a density range of 6-15 dwelling units/acre. Aside from the change in density, the project is otherwise consistent with the Guiding Principles and Policies of the General Plan such as providing infill development of land already serviced by City infrastructure and providing a variety and mix in housing types and costs.

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

The scale and layout of the subdivision will effectively integrate into the existing neighborhood and provide a suitable environment for family life. As designed, the proposed project is sensitive to pedestrian and traffic safety through effective traffic and circulation design. Additionally, the project has been subject to CEQA review through the preparation of an Initial Study (IS) and Mitigated Negative Declaration (MND). The MND has prescribed mitigation measures such as NOI-1 which requires management of equipment noise during construction and AIR-1 which requires the installation of HVAC systems with a control efficiency to remove a minimum level of air particulate that will prevent any public health problems from occurring.

Zoning Maps Amendment

To approve an amendment to the zoning map, the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-57.02:

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

As discussed above, the proposed amendment is generally consistent with the Milpitas General Plan and the project will be fully consistent if granted an amendment from land use designation SFL to SMD to allow for a slightly increased dwelling unit/acre density. The project is otherwise consistent with the Guiding Principles and Policies of the General Plan such as providing infill development of land already serviced by City infrastructure and providing a variety and mix in housing types and costs.

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

The scale and layout of the subdivision will effectively integrate into the existing neighborhood and provide a suitable environment for family life. As designed, the proposed project is sensitive to pedestrian and traffic safety through effective traffic and circulation design. Additionally, the project has been subject to CEQA review through the preparation of an Initial Study (IS) and Mitigated Negative Declaration (MND). The MND has prescribed mitigation measures such as NOI-1 which requires management of equipment noise during construction and AIR-1 which requires the installation of HVAC systems with a control efficiency to remove a minimum level of air particulate that will prevent any public health problems from occurring.

Planned Unit Development

To approve a Planned Unit Development the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-57.07:

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.*

Overall, the project offers 36 market rate, single-family homes and ten purpose-built accessory dwelling units (ADUs) with various associated social and financial benefits to the public. The project will also be a demonstration of how ADUs can be integrated into a neighborhood of single-family market rate homes. Further, the project will be efficiently sited in a way that is respectful to the character of the existing neighborhood and will incorporate a vacant lot and complete the neighborhood.

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

The proposed PUD is generally consistent with the Milpitas General Plan and the project will be fully consistent if granted the requested land use designation amendment from SFL to SMD. The project is otherwise consistent with the Guiding Principles and Policies of the General Plan such as providing infill development of land already serviced by City infrastructure and providing a variety and mix in housing types and costs.

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 project's site layout seeks to effectively integrate into the existing neighborhood by offering two-story home heights and mirroring the existing home orientations along Creed Street and Rankin Drive. Further, the Spanish/Craftsman-style architectural design visually relates to the surrounding landscape and respects the character of the existing neighboring homes. The project as built will further strengthen the identity of the existing neighborhood and achieve compatibility and aesthetic harmony with the nearby hillside landscape.

Vesting Tentative Map

To approve the Major Vesting Tentative Subdivision Map, the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-20.01:

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

The project applicant is requesting a General Plan Amendment from SFL to SMD. The intent of this designation is to provide medium-density, single-family housing at a density range of 6-15 dwelling units/acre. As this project proposes 7.4 dwelling units/acre, if granted the General Plan amendment, it is consistent with both the intended land use of the General Plan and the relevant density requirement.

2. *None of the conditions identified in California Government Code Section 66474 exist, to wit:*

- A. *That the proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.*

As set forth in Finding 1 above, the map proposes the development of the site into 36 single-family homes and ten accessory dwelling units (ADUs) at a density of 7.4 dwelling units/acre. If granted the General Plan amendment, the proposed map is consistent with the intended SMD land use of the General Plan and the relevant density requirement. The project site does not fall within a specific plan area.

- B. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

The design and improvement of the subdivision is consistent with the density range of 6-15 dwelling units per acre as permitted by the General Plan amendment from SFL to SMD. The proposed density is 7.4 dwelling units per acre. The project site does not fall within a specific plan area.

- C. *That the site is not physically suitable for the type of development.*

The site is surrounded by properties designated for single-family and hillside residential development under the City's General Plan. The project's proposed

single-family homes are well-suited to the site and surrounding neighborhood context.

D. That the site is not physically suitable for the proposed density of development.

If granted the General Plan amendment from SFL to SMD, the site is physically suitable for development at the proposed density of 7.4 dwelling units per acre. The site gradually slopes from the southeast corner of the lot and as planned will be directly connected to the existing adjacent streets (Creed Street, Rankin Drive and South Park Victoria Drive).

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The project, including the subdivision and its associated improvements, has been subject to environmental review under CEQA through the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND). On the basis of the initial study, it has been determined that although the project could have a significant effect on the environment, the prescribed mitigation measures of the MND will prevent any significant environmental effects from occurring. Additionally, the proposed project is an infill development in an existing urban area and is not anticipated to cause damage to the habitats of fish or wildlife.

F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The project, including the subdivision and its associated improvements, has been subject to CEQA review through the preparation of an IS/MND. The MND did not find that the project would be likely to cause serious public health problems and further, the prescribed mitigation measures of the MND will prevent any significant environmental effects from occurring.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Upon review of the subdivision map, it has been determined that the design of the subdivision will not conflict with existing public easements for access through or use of the property. This subdivision does propose the vacation of a sanitary sewer pipeline and easement along the rear of Lots 1 through 7 along the southern edge of the development, but a new pipeline located within the new private street will be provided to replace it. Street right-of-way for the widening of the adjacent three public streets will be dedicated, and Public Service and Utility Easements (PSUEs) will be dedicated along the adjacent public street frontages and interior private streets.

Site Development Permit

To approve the Site Development Permit, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.03(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.*

The project's site design is outward looking and seeks to effectively integrate into the existing neighborhood. The project consists of 36 single-family homes and ten accessory dwelling units (ADUs) and associated site amenities on a 4.88-acre site. The building's Spanish/Craftsman-style architectural design visually relates to the surrounding landscape and respects the character of the existing neighboring homes. The project as built will further strengthen the identity of the existing neighborhood and achieve compatibility and aesthetic harmony with the nearby hillside landscape.

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

The project is generally consistent with the development standards pursuant to the Single Family Residential (R1) Zone of the Milpitas Zoning Ordinance and will be fully consistent if granted approval of the Zoning Maps Amendment to adjust the property from R1-6 to R1-3 and if granted the alternative setbacks proposed in the request for the Planned Unit Development (PUD). See the Zoning Maps Amendment and PUD discussions above for further detail.

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

See General Plan consistency discussion set out above in support of issuing the General Plan Amendment and the Vesting Tentative Map.

ENVIRONMENTAL REVIEW

An environmental assessment (EA19-0003) for this project was conducted by environmental consultant LSA, on behalf of the City, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended, and with state and local guidelines implementing CEQA. On the basis of the Initial Study (IS), LSA has concluded that the project will not have a significant effect on the environment and, therefore, has prepared a Mitigated Negative Declaration (MND).

On August 9, 2019, the City provided a notice of intent to adopt an MND to the public, responsible agencies, trustee agencies and the County Clerk. The IS/MND is available for public review from 08/09/2019 through 09/09/2019.

Note: A typo was made in the IS/MND draft indicating that the project applicant sought to amend the zoning maps from a zoning classification of Single-Family Residential (R1-6) to Multi-Family Residential (R2). The zoning maps amendment request is in fact for a zoning reclassification from Single-Family Residential R1-6 to Single-Family Residential (R1-3) as is detailed in the zoning conformance discussion of this staff report. Further, the IS/MND draft notes a total of 78 trees proposed to be planted at the project site. The correct number of trees is 94.

PUBLIC COMMENT/OUTREACH

The applicant lead community outreach sessions on various occasions starting in 2016. Approximately 400 households were invited to drop-in community sessions held on August 24, 2016, May 14, 2019 and June 19, 2019. On at least one occasion in 2016, the applicant also knocked on the doors of neighbors bordering all sides of the project site.

Staff provided public notice of the application in accordance with City and State public noticing requirements. A notice was published in the Milpitas Post on August 16, 2019. In addition, notices were sent to all owners and occupants within 1000 feet of the project site. A public notice was also posted at the project site, on the City's Website, www.ci.milpitas.ca.gov, and at City Hall. At the time of publishing this report, there has been one public comment received from a resident expressing concern about the possible increase in project-generated traffic along North Park Victoria Drive.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing;
3. Consider the Initial Study and Mitigated Negative Declaration in accordance with CEQA Guidelines, as stated; and

Adopt Resolution 19-026 recommending that the Milpitas City Council approve the **GENERAL PLAN AMENDMENT GP18-0001, ZONING AMENDMENT ZA18-0003 (TO BE ADOPTED BY ORDINANCE PRESENTED TO THE MILPITAS CITY COUNCIL), PLANNED UNIT DEVELOPMENT PD18-0001, SITE DEVELOPMENT PERMIT SD18-0015, VESTING TENTATIVE MAP MT18-0003, AND ENVIRONMENT ASSESSMENT EA19-0003 TO ALLOW A 36-UNIT SINGLE FAMILY HOME DEVELOPMENT, INCLUDING TEN ACCESSORY DWELLING UNITS AT 1005 NORTH PARK VICTORIA DRIVE**

ATTACHMENTS

A: Resolution 19-026

B: Project Plans

C: Affordable Housing Exception Request