



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	<b>Conduct a Public Hearing and Adopt a Resolution Adopting a Mitigated Negative Declaration and Mitigation Monitoring Reporting Program in compliance with the California Environmental Quality Act; Approving a General Plan Amendment, Planned Unit Development, Site Development Permit, and Vesting Tentative Map to allow development of a residential subdivision with 34 single-family homes (market-rate), four paired homes (designated as below-market-rate), and 10 detached accessory dwelling units on a 4.88-acre site located at 1005 North Park Victoria Drive; Allowing an exception to the Affordable Housing Ordinance to allow the payment of fees in lieu of providing a full 15% of units on the site as below-market-rate units; and, Introduce Ordinance No. 38.838 to rezone the subject site from the Single-Family Residential (R1-6) Zoning District to the Single-Family Residential (R1-3) Zoning District</b>
<b>Category:</b>	Public Hearings-Community Development
<b>Meeting Date:</b>	1/21/2020
<b>Staff Contact:</b>	Adrienne Smith, Associate Planner, 408-586-3287
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1) Conduct a public hearing and move to close the hearing following comments.</li> <li>2) Adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring Program in compliance with the California Environmental Quality Act; Approving the revised project including General Plan Amendment (GP18-0001), Planned Unit Development (PD18-0001), Site Development Permit (SD18-0015), and Vesting Tentative Map (MT18-0003) to allow development of a residential subdivision with 34 single-family homes (market-rate), four paired homes (designated as below-market-rate), and 10 accessory dwelling units on a 4.88-acre site located at 1005 North Park Victoria Drive; and, Allowing an exception to the Affordable Housing Ordinance to allow the payment of fees in lieu of providing a full 15% of units on the site as below-market-rate units.</li> <li>3) Move to waive the first reading beyond the title and introduce Ordinance No. 38.838 to rezone the subject site from the Single-Family Residential (R1-6) Zoning District to the Single-Family Residential (R1-3) Zoning District.</li> </ol>

### **Background:**

On November 18, 2018, Robson Homes applied for a set of entitlements to allow development of a residential subdivision with 36 two-story, single-family homes, and 10 accessory dwelling units (ADUs), on a 4.88-acre site located at 1005 North Park Victoria Drive in northern Milpitas. The site is currently undeveloped except for one vacant, fire-damaged home at the southeast corner of the site on North Park Victoria Avenue.

On August 28, 2019, the Planning Commission held a public hearing on the proposed development and unanimously approved (5-0), Commissioners Mandal and Tao abstained) staff's recommendation to adopt a resolution recommending that the City Council approve the above application requests.

On November 5, 2019, City Council held a public hearing on the proposed development and direct Planning Department staff to work with Robson Homes to incorporate four affordable housing units on site. On December 11, 2019 the Planning Commission heard the revised project and approved it unanimously (5-0).

The revised application includes the following:

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 38-unit single family home development including 34 market-rate housing units, four affordable housing units (paired homes), and ten accessory dwelling units on the 4.88-acre site; and
5. Vesting Tentative Map P-MT18-0003: To establish 38 single-family home lots and to record site easements.

### **Analysis:**

#### **General Plan Amendment**

The proposed 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. The General Plan amendment is in the public interest because it will enable infill development to occur on a vacant 4.88-acre lot with 34 single-family, market rate homes, four affordable homes and 10 ADUs in an area that is already served by City infrastructure. The scale and layout of the new subdivision will complement and complete the existing neighborhood, and the proposed project will significantly enhance pedestrian and traffic safety by widening and completing local streets surrounding the site and adding new sidewalks, parking, and landscape strips. The project will also include the demolition of a fire-damaged home that has been vacant and abandoned at the southeast corner of the property for many years. The Planning Commission Staff Report (Attachment C) provides additional detailed analysis of the project's conformance with the General Plan and Climate Action Plan (CAP).

#### **Zoning Amendment**

The requested Zoning amendment will amend the zoning map from Single-Family Residential (R1-6) to Single-Family Residential (R1-3). This amendment would reduce the required minimum lot size from 6,000 square feet to 3,000 square feet to accommodate the project's market rate home lot sizes, which range from 3,540 - 5,787 square feet.

The proposed zoning amendment would result in a gradual transition in minimum lot sizes between the two neighboring subdivisions. The Fox Hollow subdivision that borders the southern end of the project site is zoned R1-4 and requires a minimum lot size of 4,000 square feet, while the neighboring subdivision to the north and west is zoned R1-6 and requires a minimum lot size of 6,000 square feet. By comparison, the proposed project's 34 market rate home lots have an average lot size of approximately 4,415 square feet. In addition, the proposed density of 7.8 dwelling units per gross acre conforms to the permitted density of one dwelling unit/lot and 3-15 dwelling units per gross acre, which is the same across all R1 zoning districts. The Planning Commission Staff Report (Attachment C) provides detailed analysis of the project's conformance with the Zoning Ordinance.

#### **Planned Unit Development**

Pursuant to MMC Section XI-10-54.07, the applicant has requested a Planned Unit Development (PUD) permit to accommodate reduced setbacks from the minimum standards required by the R1-3 zoning designation to accommodate some of the more narrow market rate home and affordable home lots. The PUD also accommodates the four smaller affordable home lots that range in size from 2,500 – 2,677 square feet. Infill development projects such as this one often present unique site planning challenges and developing the site as a PUD will allow the efficient use of land and provision of suitable private yards and public improvements such as streets, sidewalks and landscape strips. The Planning Commission Staff Report (Attachment C) provides additional information regarding the Planned Unit Development permit for the proposed project.

### Site Development Permit

The proposed development, including 34 single family, market rate homes, four below-market rate homes and 10 accessory dwelling units (ADUs), would be located on a 4.88-acre site in northern Milpitas in an area consisting primarily of residential and commercial uses. The project site slopes downward from the southeastern corner (approximately 14 to 18 feet) and is currently vacant except for an abandoned, fire-damaged home at the southeast corner of the property (opposite the intersection of North Park Victoria and Country Club Drive) for many years. The existing house will be demolished to accommodate the proposed new development, and the proposed project will include the widening and completion of all streets adjacent to the site, including Creed Street, Ranking Drive, and portions of North Park Victoria Drive.

Pursuant to Milpitas Municipal Code Section XI-10-57.03(F), findings have been made for project consistency with the Milpitas General Plan and Zoning Ordinance. The proposed layout of the site and design of proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development. Specifically, the project's site design is outward-facing to the surrounding residential community and integrates seamlessly with the existing neighborhood. The Spanish/Craftsman-style architectural design visually relates to the surrounding landscape and respects the character of nearby homes and the larger community.

The proposed site plan meets all City development standards for building height, parking and vehicle circulation, pedestrian amenities, parks and open space, storm water management, and landscaping. As noted, the project site is in an urban area served by existing utilities, including water, sanitary sewer, storm drainage, electricity, gas, and telecommunications infrastructure. The Planning Commission Staff Report (Attachment C) provides additional detailed analysis and findings for approval of the Site Development Permit.

### Vesting Tentative Map

As set forth in the Resolution, the project's form, content and dedications of the proposed tract map are consistent with the provisions of Milpitas Municipal Code Section XI-1-4 (Tentative Maps).

The design of the project does not conflict with existing public easements for access through or use of the property. This subdivision will require 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 will be located within the new private street as a replacement. The developer will dedicate new street right-of-way for the widening of Creed Street, Rankin Drive, and North Park Victoria Drive, and Public Service and Utility Easements (PSUEs) will be dedicated along adjacent public street frontages and interior private streets.

Pursuant to Milpitas Municipal Code Section XI-1-20.01, findings have been made for project consistency with the Milpitas General Plan and Zoning Ordinance. Specifically, the Vesting Tentative Map is consistent with the proposed General Plan land use designation of SMD and relevant density range of 6-15 dwelling units/acre. The project site is surrounded by properties designated for single-family residential development and would have a compatible density of 7.8 dwelling units per acre. The Planning Commission Staff Report (Attachment C) provides additional detailed analysis and findings for approval of the Vesting Tentative Map.

### Affordable Housing

Pursuant to MMC Section XII-3.00, all new residential development projects of ten units or more designed and intended for permanent occupancy are required to provide 15 percent of the total number of dwelling units (5.1 units) within the development as below-market-rate units, unless approved for an exception as set forth in MMC Section XII-1-4.00. All exceptions require City Council approval.

The applicant proposes to construct four affordable "paired" units located on the new private street extending from Blalock Street. The affordable units will be targeted to moderate-income households. According to MMC Section XII-3.04, all affordable units shall reflect the range of numbers of bedrooms provided in the project as a whole and shall not be distinguished by exterior design, construction, or materials. Affordable units may be of smaller size and have fewer amenities than the market rate units in the project and shall be reasonably dispersed throughout the project. Like the market rate units, the proposed paired units are located on individual lots, have four bedrooms, and share similar architectural style.

The applicant further proposes to pay the current in-lieu fee of \$33 per square foot to satisfy the requirement for an additional 1.1 affordable units on the site. The new net residential living area is estimated at 109,622

square feet; therefore, the estimated in-lieu fee is \$780,250.71. This fee is subject to change and will be officially calculated once the building permit application confirms the net area of new residential living space.

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

*Analysis: Analysis: The applicant proposes to construct four affordable housing on site, as well as pay the remaining 1.1-unit equivalent affordable in-lieu fee. In addition to providing the units and the fee, the applicant will provide ten ADUs within the project, and these smaller studio units will be affordable by design. The California Department of Housing and Community Development (HCD) identifies ADUs as a valuable tool in providing affordable housing to couples, small families, friends, young people, and seniors. ADUs can also be a source of income for homeowners, allow flexible living arrangements for families, and provide as much living space as many newly-built apartments and condominiums. ADUs can also allow seniors to age in place as they require more care over time. ADUs may not be used for short-term rentals (STRs) of less than 30 days (Gov. Code Section 65852.2). Staff recommends that the City Council finds that the requested exception exceeds the minimum requirements of the City's Affordable Housing Ordinance.*

2. The community benefits exceed the project benefits.

*Analysis: The proposed project is the first residential development of its kind in Milpitas to include purpose-built ADUs as part of the overall project design. As discussed in the previous finding, ADUs provide a myriad of benefits to residents, 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 set by the State of California and City of Milpitas to increase the number of ADUs in local communities. Paired with the potential financial and social community benefits associated with ADUs, staff recommends that City Council finds that the community benefits exceed the project benefits.*

#### Additional Minor Project Updates

In addition to affordable housing revisions to the project, there are two other minor updates to note:

- The publicly accessible "tot lot" park with a play structure located at Creed Street and Rankin Drive, was reviewed and approved by the Parks Recreation & Cultural Resources Commission on January 6, 2020.
- Parkland fees were adjusted to account for the net addition of two more homes to the site, as well as a lower estimated ADU population density of three persons per unit versus 3.75 persons per unit projected for the single-family homes and to account for the parkland credit for the "tot lot".

#### Policy Alternatives:

**Alternative 1: Approve the original site plan for the project with 36 single-family homes (market-rate), ten accessory dwelling units, and the payment of in-lieu fees to satisfy the City's Affordable Housing Ordinance requirement for 5.1 affordable units (15% of total units) on the project site.**

**Pros:** The applicant would develop a vacant lot into a new residential subdivision with 36 single-family homes on individual lots, and the City's Affordable Housing Fund would receive an approximate in-lieu fee of \$3.4 million to apply to future affordable housing initiatives at its discretion.

**Cons:** No affordable housing units would be provided on the site, and the City would forego the benefits of having additional affordable housing units.

**Reasons not recommended:** The applicant agreed to modify the project to include four affordable units on the project site and pay fees in lieu of the other 1.1 affordable units needed to meet the 15% requirement of the Affordable Housing Ordinance. Reverting to the original site plan and project scope would require further public meetings, modifications to the CEQA study, and additional delays to the entitlement process.

## **Alternative 2: Deny the application.**

**Pros:** The property owner could submit an entirely new project that includes the required 5.1 affordable units (15% of total units) on the project site. Alternatively, the property owner could submit a project that exceeds the required minimum of 15 affordable units and take advantage of State and local density bonus laws to build at a significantly higher density than is currently proposed. More affordable housing units on the site would help alleviate the current housing crisis in the area and provide new housing options for Milpitas residents.

**Cons:** Denial of the project would delay development of the site – possibly for years – and leave a vacant, unimproved piece of land, with an abandoned, fire-damaged home in place and an incomplete neighborhood. The City would not benefit from development of a vacant property, including higher land valuation and tax revenue, and the neighborhood would not benefit from various infrastructure and landscape improvements associated with the project.

**Reason not recommended:** The proposed project will benefit the City and the adjacent neighborhood by completing streets and other infrastructure, including a new publicly accessible “tot lot” park. The applicant and the City have conducted extensive public outreach to inform residents about the proposed project. If the project is denied, the City would lose the opportunity to gain 34 single-family homes (market-rate), four paired homes (below-market-rate), and 10 affordable-by-design ADUs. The City would also forego an estimated in-lieu fee of \$780,250.71 to benefit the Affordable Housing Fund.

### **Fiscal Impact:**

The project will have a net neutral fiscal impact to the City, as the applicant will pay all required development fees to the City. The development fees will include a one-time payment of approximately \$780,250.71 to the City’s Affordable Housing Fund.

### **California Environmental Quality Act:**

The City prepared an environmental assessment (EA19-0003) for this project in accordance with the California Environmental Quality Act (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 was available for public review from 08/09/2019 through 09/09/2019.

The final IS/MND was presented for City Council adoption at its November 5, 2019 meeting; however, given the changes to the site plan, the IS/MND was updated. On December 5, 2019, the City provided notice of its intent to adopt the updated MND to the public, responsible agencies, trustee agencies and the County Clerk. The IS/MND was available for public review from December 5, 2019 through December 27, 2019. The revised IS/MND received no comments.

### **Recommendations:**

- 1) Conduct a public hearing and move to close the hearing following comments.
- 2) Adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring Program in compliance with the California Environmental Quality Act; Approving General Plan Amendment (GP18-0001), Planned Unit Development (PD18-0001), Site Development Permit (SD18-0015), and Vesting Tentative Map (MT18-0003) to allow development of a residential subdivision with 34 single-family homes (market-rate), four paired homes (below-market-rate), and 10 accessory dwelling units on a 4.88-acre site located at 1005 North Park Victoria Drive; and, approving an exception to the Affordable Housing Ordinance to allow the payment of fees in lieu of providing a full 15 percent of affordable units on the site.
- 3) Move to waive the first reading beyond the title and introduce Ordinance No. 38.838 to rezone the subject site from the Single-Family Residential (R1-6) Zoning District to the Single-Family Residential (R1-3) Zoning District.

**Attachments:**

A: Resolution

B: Ordinance 38.838 to allow rezoning from R1-6 to R1-3 (for Introduction)

C: Planning Commission Staff Report (dated December 11, 2019)

D: Planning Commission Resolution no. 19-033

E: Final Initial Study/Mitigated Negative Declaration (Draft IS/MND)

F: Mitigation Monitoring and Reporting Program (MMRP)

G: Project Plans