

# City Council Questions

## May 19, 2020 Council Meeting

### ITEM 3.2 PROFESSIONAL SERVICES AGREEMENT FOR CONSULTING LEGAL SERVICES

1. Was Goldfarb & Lipman used to help the city sort through SB330?

Yes.

2. Is the law firm, Goldfarb & Lipman the same that the RHC uses? Could there be a conflict of interest between the City and RHC? When was the last RFP issued to find a law firm?

Goldfarb & Lipman's contract to provide legal services is with the City of Mountain View with respect to the CSFRA. Pursuant to that contract their services are performed at the direction of the City Attorney and the City Attorney is considered the chief counsel of record for all matters. In Goldfarb's capacity of providing services to the City they primarily provide legal advice to the RHC but also provide counsel to the City on other housing related matters. As the CSFRA provides, the RHC is an integral part of the City and for purposes of legal services is similar to the Planning Commission or other commissions in the City. The City Attorney's office represents the RHC but has contracted with Goldfarb & Lipman to provide that representation. An RFP was issued in August 2018 for the CSFRA and Goldfarb & Lipman was selected through that process.

3. Was Goldfarb and Lipman used to help the city sort through the changes to the ADU regulations?

Yes

### ITEM 5.1 ROWHOUSE DEVELOPMENT AT 1555 WEST MIDDLEFIELD ROAD

1. Is this project subject to the permit streamlining act? If so, what is the deadline for the public hearing?

Yes, the project is subject to the Permit Streamlining Act (PSA). The project was deemed complete December 16, 2019. A Mitigated Negative Declaration was prepared for the project which must be adopted within 180 days from the date of completion, or prior to June 16, 2020, unless an extension is provided under the extension provisions of the PSA.

2. Does our Zoning and design guidelines actually allow such a long superblock development with so little green space and so much concrete surrounding the homes?

The project exceeds the Rowhouse Guidelines requirements for both common space as well as private open space. The project also conforms with the City's Subdivision Ordinance. The design standards in the Subdivision Ordinance regarding large blocks pertain to the creation of new blocks from large land areas, not the subdivision of an existing single property within an existing block and established street network. The existing block length is consistent with the block to the north and to the south and there are no plan lines requiring street dedication. The project provides a public through-block pedestrian/bike pathway with a public access easement from San Ramon

Avenue to Middlefield Road which would be available for use by the general public as well as the project residents.

3. Is an initial study and Mitigated negative declaration required on all projects like 1555 West Middlefield, if not what triggers this report?

No, an Initial Study/Mitigated Negative Declaration is not required on all projects. An Initial Study/Mitigated Negative Declaration was prepared for the proposed project because it exceeds the maximum lot size threshold of 5-acres necessary to qualify for a CEQA Exemption.

4. Can city required larger Box size than the 24" to replace the 55 Heritages trees?

Yes, the City can require larger size replacement trees.

5. Park in lieu fees, staff report show a range between \$20k to \$ 40k. Why a range?

The condition of approval pertaining to Park Land Dedication Fees is a standard condition of approval for all residential projects. The condition provides an approximate range of the fee per net new unit as the actual fee is based on the land value at time of map recordation. For this particular project, there are no net new units therefore there will not be a fee unless the unit count changes.

6. Is the rental market showing any signs that it is not renting because of the COVID 19? Are landlords not willing to show available units?

Apartments are still being rented and shown to potential tenants on-line via virtual tours, photos, and other virtual platforms.

7. Would displacement resulting from demolition for the purpose of redevelopment qualify as "eviction?" Or, put another way, would the Judicial Council emergency rules that "suspend the entry of defaults in unlawful detainer actions" pertain to/affect notices to vacate for the purpose of redevelopment? If yes, then what would happen if these rules continue to be in effect by the end of October?

I understand that the rule "will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted" or unless altered by the Judicial Council.

If the Judicial Council Order is still in effect in October, it will impact the property owner's (developer's) ability to force the tenants to move out.

The Judicial Council Order (Order) applies to all unlawful detainer actions unless the unlawful detainer is necessary to protect the public health and safety (e.g., if a tenant is conducting illegal activity in the unit). Under the Order the Courts (i) will not issue any summons for an unlawful detainer, so the tenant cannot be served with the complaint, (ii) will not issue any default judgments if the tenant has failed to appear; and (iii) will not set an unlawful detainer case for

trial if the defendant has already appeared in the case any earlier than 60 days after the request for the trial.

If any of the tenants of 1555 W. Middlefield refuse to vacate the property when the one year notice expires In October, the property owner’s only recourse is to file an unlawful detainer action (an eviction action). If the Order is still in effect at that time, the property owner can file the complaint for unlawful detainer with the court, but the court will not issue a summons until the Judicial Council Order is revoked or 90 days after the state of emergency is lifted; so only after that date would the tenants be served and the unlawful detainer could proceed to trial.

8. Resolution No. 18434, “Ratifying the Existence of a Local Emergency,” includes these clauses:

BE IT FURTHER RESOLVED that, due to severe curtailment of staff resources and limitations requiring the City to devote resources to essential functions caused by the LOCAL EMERGENCY, certain processing deadlines cannot reasonably be met for various nonessential services, all provisions of laws, ordinances, regulations, resolutions, rules, and statutes, including, but not limited to, provisions contained in the California Permit Streamlining Act, the California Environmental Quality Act, the California Subdivision Map Act, the City of Mountain View Subdivision Ordinance, the City of Mountain View Zoning Regulations, the California Public Records Act, and all other processing timelines required by State and Federal law establishing review deadlines and authorizing automatic approvals, are suspended for the duration of the LOCAL EMERGENCY.

BE IT FURTHER RESOLVED that said LOCAL EMERGENCY shall be deemed to continue to exist until its termination is declared by the Director of Emergency Services of the City of Mountain View.

Are we still in a local emergency? What do the provisions in the first clause mean, and how can we take advantage of them?

Yes, the City is still operating under a local emergency enacted by Resolution 18434 which remains in effect until it is lifted by the Director of Emergency Services (the City Manager). Some background is helpful to understand the intent of the emergency, and why a variety of state laws were included in the section suspending nonessential services. The emergency was declared when the City faced an unprecedented crisis caused by COVID-19. In addition to granting the City various additional powers, such as streamlining or eliminating customary processing requirements for purchasing supplies, executing contracts, and modifying City operations, the declaration also suspended various nonessential services based on the severe and immediate constraints on staff’s ability to perform regular tasks, most significantly those associated with processing development applications.

The City took the approach of many other cities in referencing several state laws in its emergency declaration, including the Permit Streamlining Act (PSA) and the California Environmental Quality Act (CEQA), reasonably anticipating the State would quickly suspend those laws which contain processing timelines. Since the emergency was declared, the State has only suspended portions of certain laws, most notably a limited suspension of the PSA for California Coastal

Permit projects and others with heightened environmental sensitivity, and portions of CEQA related to noticing and filing requirements imposed on local agencies.

The acute impacts on staff in terms of processing development applications have lessened since the emergency was declared, which has allowed for some degree of normalcy to return in staff's ability to process development projects, and has allowed for those which were in the processing pipeline prior to the crisis to continue moving forward. In light of the state's limited suspension of the law, the PSA still applies to cities, and the city continues to process those projects within legal time requirements.

9. On what date was the project application deemed "complete?" What is the definition of "completeness?"

The project was deemed complete on December 16, 2019. An application is complete when all information contained on the City's submittal checklist is provided.

10. The BMR Phase 2 Program exempts "non-gatekeeper projects with formal applications submitted by June 30, 2019, provided that, prior to August 24, 2019, applicants must submit all of the additional information as requested in the City's 30-day letter responding to the applicant's formal application submittal." On what date was the project submitted, and on what date did the applicant submit all of the additional information as requested in the 30-day letter?

The project application was submitted on May 8, 2019. The additional information requested was submitted on July 16, 2019.

11. Under state law, would homeowners be allowed to convert their garages into ADUs? Is there any way the City can mitigate the parking impacts that would result from the conversion of rowhome garages into ADUs?

Yes, under State Law a homeowner could convert their garage into an ADU and the City cannot require replacement parking.

12. Can the City prohibit renting rooms or homes in the CC&Rs?

No, the City cannot prohibit the renting of rooms in the CC&Rs.

13. How much is the developer paying in parkland dedication in-lieu fees? (Condition of Approval #108)

Parkland dedication in-lieu fees are based on net new units. The proposed project does not propose any net new units therefore there will not be a fee unless the unit count changes.

14. How much is the developer paying in transportation impact fees? (Condition of Approval #106)

Transportation impact fees are based on net new units. The proposed project does not propose any net new units therefore there will not be a fee unless the unit count changes.

15. Can staff explain the Subdivision Ordinance Sec. 28.47 (a)? Are existing block lengths in excess of 900 feet grandfathered in? In what circumstances would Section 28.47(a) be triggered?

The design standards in the Subdivision Ordinance regarding large blocks pertain to the creation of new blocks from large land areas. The proposed project does not create a new block but rather subdivides an existing lot which is part of an existing block comprised of several properties. The project provides a public through-block pedestrian/bike pathway with a public access easement from San Ramon Avenue to Middlefield Road which would be available for use by the general public as well as the project residents.

**ITEM 6.1 SELECTION OF LOT 12 PREFERRED DEVELOPMENT TEAM**

1. To provide an apples-to-apples comparison (with previously approved projects), can staff express the requested subsidies in dollars/unit?

Development Team	EAH	Eden	Eden {Preferred 4%9% Hybrid Proposal}	MidPen	Related /PAHC	Related/ PAHC (Scenario 2)	Related/ PAHC (Scenario 3)
Residential Subsidy request/Unit	\$58,333	\$192,100	\$20,833	\$58,875	\$21,610	\$21,610	\$90,297

2. If the City provides a subsidy for parking, what funding source would be used?

Council had previously stated that a subsidy for replacement parking, if needed and approved, would be a non-General Fund source. The likely funding source would be the Parking District, subject to availability

3. What is the status of the parking agreement with Kaiser to allow public parking in their downtown garage?

The shared parking program was created to be a valet operation for downtown patrons on the Kaiser parking lot from Thursday through Saturday from 6:00 pm to midnight. However, in working through the agreement terms, liability and towing issues have been raised and are yet to be worked out. Contracts with private parties are more difficult to execute and staff will be recommending focusing on public lots due to the ease in implementation. This item will be revisited as part of the development/implementation of the Downtown Parking Strategy. The City has valet service at Lot 11 - Franklin and Villa Streets across from the Public Safety building and could quickly expand to another public parking lot. The valet program is currently on hold because parking is not an issue due to COVID-19.

4. Given the recent ruling regarding the proposed hotel on Leong, does the City have the ability to allow 4, 5, or 6 stories on this lot when the Precise Plan states 3 stories?

Yes. Currently, the Precise Plan allows up to three stories with some flexibility for an additional story depending on the project. The selected developer could potentially seek additional height through a density bonus and/or a Precise Plan Amendment and environmental review may be required if the proposed project deviates from the current Precise Plan land use restrictions.

5. Was the scoring a forced ranking for each element/criteria?

It was not a forced ranking, either for each element or in total.

6. What is the balance of the City's affordable housing funds that are not already reserved for projects?

Approximately \$60 million are currently unreserved and will be made available to affordable housing project in the pipeline. It is estimated that the overall pipeline (including Lot 12) has more than \$100 million in subsidy requests.

7. If Measure A funds are used for some of the units, does that limit local preference for the non-Measure A funded units?

As with all City of Mountain View affordable housing developments, the City requires a live/work preference when allowed by the funding source. The County of Santa Clara has not in the past allowed the City to implement its live/work preference. Any Measure A funded unit will be referred and occupied by a client from the County's Office of Supportive Housing program, which includes those who live/work in Mountain View. Staff have worked closely with the County to identify potential opportunities to place those who live/work in Mountain View in future Measure A housing in the City, and staff would continue to do so with the selected developer and the County (if the project seeks Measure A funding).

8. Are the stackers puzzle lifts or traditional stackers in the EAH proposal?

Staff's understanding is that EAH studied different options, including puzzle-style lifts. EAH has conveyed that, if selected as the preferred developer, they would work closely with the City to determine the appropriate stacker system.

9. What is the unit mix (i.e., 1 bedroom, 2 bedroom, etc.) for the Eden proposal?

For both financing scenarios submitted by Eden, the following is the unit mix:

- 26 studios
- 30 1BR
- 32 2BR
- 32 2BR

10. Why are the 8 units in the MidPen proposal limited to students within the MVWSD? Can this be expanded to include MVLA?

If selected, MidPen has indicated they would be open to exploring MVLA as well, as they understand this may be a relevant issue for all districts.

11. Is the PAH upfront ground lease payment of \$10 million for the initial 59 years? If not, what timeframe is it for?

Related/PAHC has confirmed the lease payment would cover the entire lease term.

12. Is the weighted average AMI the only difference between the two scenarios from Eden?

Besides the AMI, the other differences are the type and amount of City subsidy requested, as shown below:

	<b>Base Scenario</b>	<b>Alternative Scenario</b>
<b>City Residential Subsidy</b>	<b>\$23,051,955</b>	<b>\$2,500,000</b>
Residential Subsidy/Unit	\$192,100	\$20,833
<b>City Non-Residential Subsidy</b>	<b>\$2,834,993</b>	<b>\$0</b>
<b>City Parking Subsidy</b>	<b>\$6,228,701</b>	<b>\$0</b>
Parking Subsidy/Space	\$38,929	\$0
<b>Total City Subsidy</b>	<b>\$32,115,649</b>	<b>\$2,500,000</b>

13. Which affordable housing projects in Mountain View had a live/work preference for the new residents?

The following developments have implemented live/work preferences for Mountain View residents: San Antonio Place, Ginzton Terrace, Studio 819, Paulson Park Apartments, Shorebreeze Phase II (50 new units), Franklin Street Family Apartments.

Both Eagle Park Apartments and 1585 Studios serve special populations and when possible the live/work preference is implemented.

14. How successful are those projects in filling the projects with people who live or work in Mountain View?

The ability to implement a live/work preference is dependent on several factors, such as the source of funding, the target populations, etc. Due to privacy laws, the City does not have access to application information to quantify the rate of filling units with people who live or work in Mountain View. However, staff understands that, anecdotally, almost all of the property managers have been able to fill the developments with Mountain View residents or employees.

15. If they were not successful in filling the projects with people who live or work in Mountain View, what were the challenges in doing so?

Challenges have arisen when there is a specific target population such as those with developmental disabilities, formerly homeless veterans etc. In these cases, it could be more challenging to identify the population within the City to fill all the units or when one becomes vacant.

16. How specifically does the process work to find and qualify people to live in new affordable units? When does an interest list get started?

The process begins before the completion of a project, starting with an affirmative marketing and leasing plan produced by the developer. If there are units for specific populations, the marketing plan would include a targeted marketing plan for specific outreach for that particular population. Several months before a project nears completion, the City and the developer work together to implement the marketing plan. The City reviews all marketing materials and works with the developer to make the applications available as hard copies at City facilities, at CSA, and as soft copies on the developer website. The City also emails the information who have registered for information (approximately 8,000 have registered) regarding affordable housing interest lists, and the information is also posted at [mountainview.gov/housing](http://mountainview.gov/housing).

17. When is income verified for interested tenants? Some might not have any income at the moment due to COVID-19.

Typically, the income verification process begins a few months prior to the scheduled occupancy of the project. All tenants must show income in order to apply for the units. The income can come from a variety of sources including social security, disability, employer, self-employment, etc. For Lot 12, the current schedule is for project completion during the third quarter of 2025, with income verification beginning in the first or second quarter of 2025. At that time, it is possible that the COVID-19 recovery has been well underway.

18. Excluding senior housing, what percent of affordable units the City has created have at least one person:

- With a job in Mountain View at the time they moved to the unit
- Who went to school in Mountain View at the time they moved to the unit
- Who lived in Mountain View just before moving to the unit
- Who was recently displaced by a new development in Mountain View?

What percent of affordable senior units the City has created have one person who lived in Mountain View just before moving to the unit?

Because of privacy laws, the City cannot review the applications or ask the management companies to allow us to review applications or files. The City does not have access to these files and have not asked the management companies to track this data. The City could request the management companies to evaluate if there is existing data or, if not, to track this data and bring it back in the future.



19. Which of the funding sources proposed by developer team applicants allow the city to make our own list of housing applicants and which funding sources rely on a previously existing list that the city has lesser or no control over?

Which of the funding **packages** proposed by developer team applicants would allow the city to select residents who are Mountain View employees, residents, students or recently displaced from Mountain View housing? Which would not allow that?

Or if this question is easier to answer: Which of the funding **sources** proposed by developer team applicants would allow the city to select residents who are Mountain View employees, residents, students or recently displaced from Mountain View housing? Which would not allow that? Which applicant proposes which sources?

This response is for the three questions above. The City's requirement is a live/work preference when possible. Developers of affordable housing that leverage Federal, State and/or County funding will be required to comply with applicable state and federal fair housing laws. City staff will work with the chosen developer to provide a preference for Mountain View residents and/or workers to the extent permitted by law.

Some funding sources, such as Santa Clara County Measure A funds for permanent supportive housing and rapid rehousing units, specify tenant selection criteria that would prioritize the referral of Countywide residents who have been homeless the longest or who have the highest service needs for this type of housing. EAH, Eden's preferred alternative financing scenario, and one of Related/PAHC's financing scenarios include Measure A funding.

Additionally, staff understands that affordable housing projects with tax credits/tax exempt bond financing may have challenges with the live/work preference. All four recommended teams include tax credits and tax exempt bond financing as part of their financing.

20. Can we actually enforce a priority for families with students in the MVWSD and MVLA school districts?

MidPen has indicated that the proposed school district preference is modeled after a similar program in another affordable housing development in Daly City, where they have a counsel opinion letter that such a program could be operated. City staff is not familiar with this program and, if MidPen is the selected developer team, the City would need to evaluate this issue.

21. How much open space is provided on each proposal?

Affordable housing is excluded from the City's parkland dedication requirement and all of the Lot 12 RFP respondents propose a 100 percent affordable housing development.

The Lot 12 RFP does include the following submittal requirement:

"Description of how the project would facilitate placemaking and add to a sense of place and community, referencing specific elements of the project, including the mixed-use component,

architecture and design, and other design features such as public art, publicly accessible open space, or other elements.”

Each of the four recommended teams included different strategies for placemaking, such as public plazas, interior courtyards/ mews, buffers with the adjacent residential neighborhood etc. The RFP did not require the square footage of these elements to be included in the submittal, and the respondents did not include this information.

22. What is the expected lease income?

Three of the four recommended teams include a \$1/yr ground lease payment, which assists with the financing of the project. The fourth team, Related/PAHC, has proposed a lump sum ground lease payment of approximately \$10.1 million as part of its financing strategy. Their concept is that the payment would be either put back into the project by the City or the City could use it to facilitate off-site parking. If selected, the City would need to better understand this ground lease payment mechanism.

23. How is Rapid rehousing housing handle now?

Developers may incorporate rapid rehousing as part of an affordable housing project. This requires that the developer access funding, such as Measure A, to help finance the project. Additionally, developers need to include an ongoing financing source to fund services associated with rapid rehousing units after the project is completed and occupied by residents.

24. Would the child care center be fully subsidized or would there be requirements similar to what the city requires next to the senior center?

Eden and MidPen both proposed a child care center as part of the non-residential portion of the development.

Eden submitted two financing scenarios. The first (base) scenario includes a \$2.8 million request for the non-residential use. The alternative scenario (Eden’s preferred scenario) does not include a subsidy request for the non-residential use.

MidPen does not seek a City subsidy for the non-residential use.

If one of the two teams is selected as the preferred developer, staff would need to work with the developer to determine if child care services would be subsidized for the customer.

25. My question is which proposal, allows for local preference? I think that if you use certain funding sources, like Measure A money, there are restriction on who you can rent to?

Each of the recommended teams submitted proposals that include 4% tax credit financing and tax exempt bond financing, which may limit the ability for the City to implement local preference.