AGENDA ITEM: IX-1

MILPITAS PLANNING COMMISSION
STAFF REPORT

June 11, 2014

APPLICATION: **GOODWILL ZONING TEXT AMENDMENT– 311 W. Calaveras Boulevard – ZA14-0002, SD14-0008, and UP14-0010:** A request to consider a Zoning Text Amendment to conditionally permit thrift store uses in the Neighborhood Commercial (C1) Zoning District with performance standards; and, a Site Development Permit and Conditional Use Permit for a new Goodwill of Silicon Valley retail store and associated site improvements located in an existing shopping center

RECOMMENDATION: **Staff recommends that the Planning Commission:**
Adopt Resolution No. 14-024 recommending the City Council adopt Zoning Text Amendment No. ZA14-0002 to conditionally permit thrift stores uses in the Neighborhood Commercial (C1) Zoning District with performance standards; and approve Site Development Permit No. SD14-0008, and Conditional Use Permit No. UP14-0010, to permit the operation of Goodwill retail store and associated site improvements at this location.

LOCATION:

Address/APN:	311 W. Calaveras Blvd. (22-25-036 and 22-35-037)
Area of City:	Midtown Specific Plan

PEOPLE:

Project Applicant:	Goodwill of Silicon Valley, a California corporation
Property Owner:	Robert L. Nedd
Project Planner:	Jocelyn Puga, Planning Intern

LAND USE:

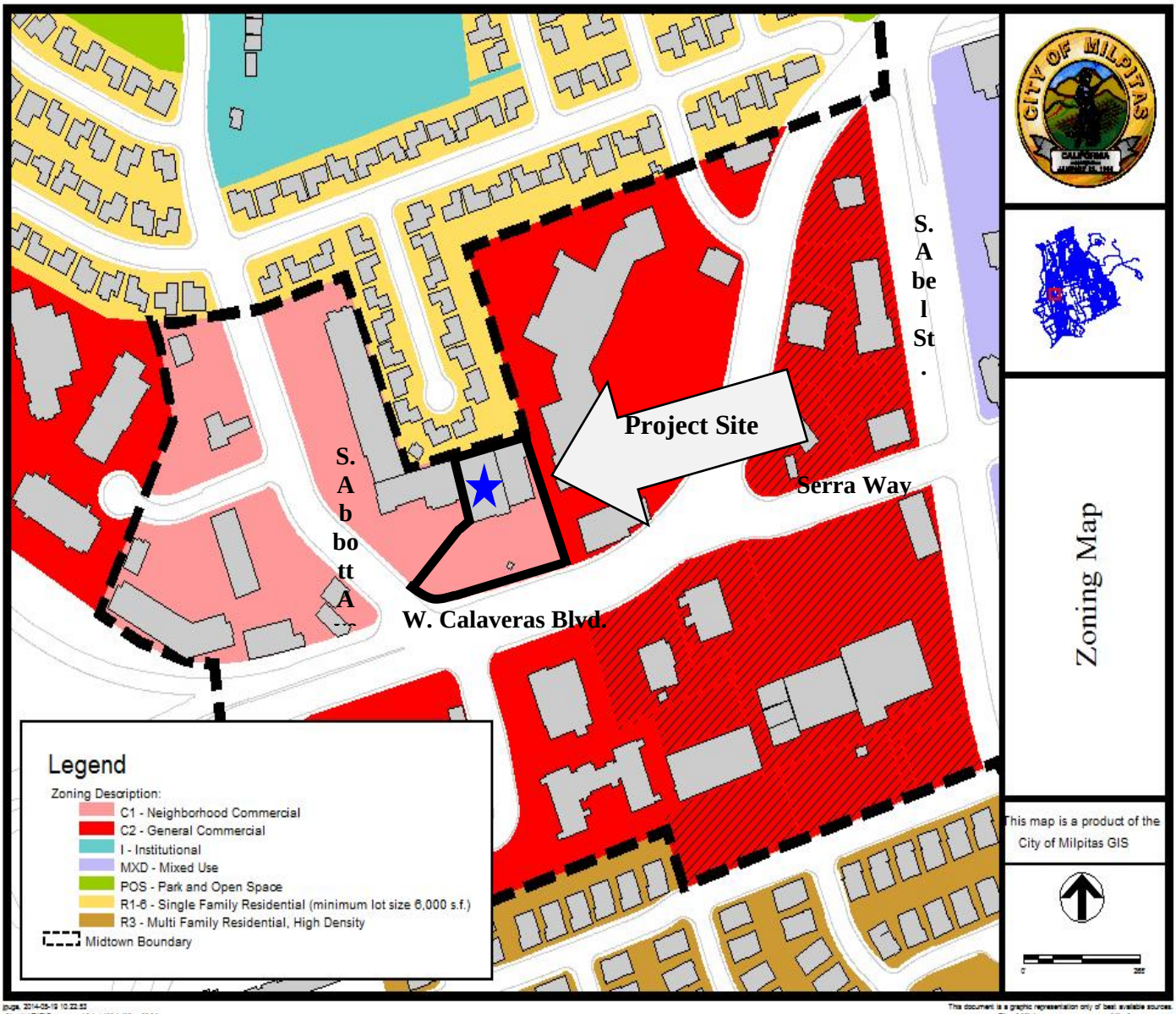
General Plan Designation:	Retail Subcenter (RSC)
Zoning District:	Neighborhood Commercial (C1)
Overlay District:	Site and Architectural Overlay (-S)

ENVIRONMENTAL: Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) This project is also exempt from further environmental review pursuant to Section 15061(b)(3) in that the California Environmental Quality Act only applies to projects that have the potential for causing a significant effect on the environment.

EXECUTIVE SUMMARY

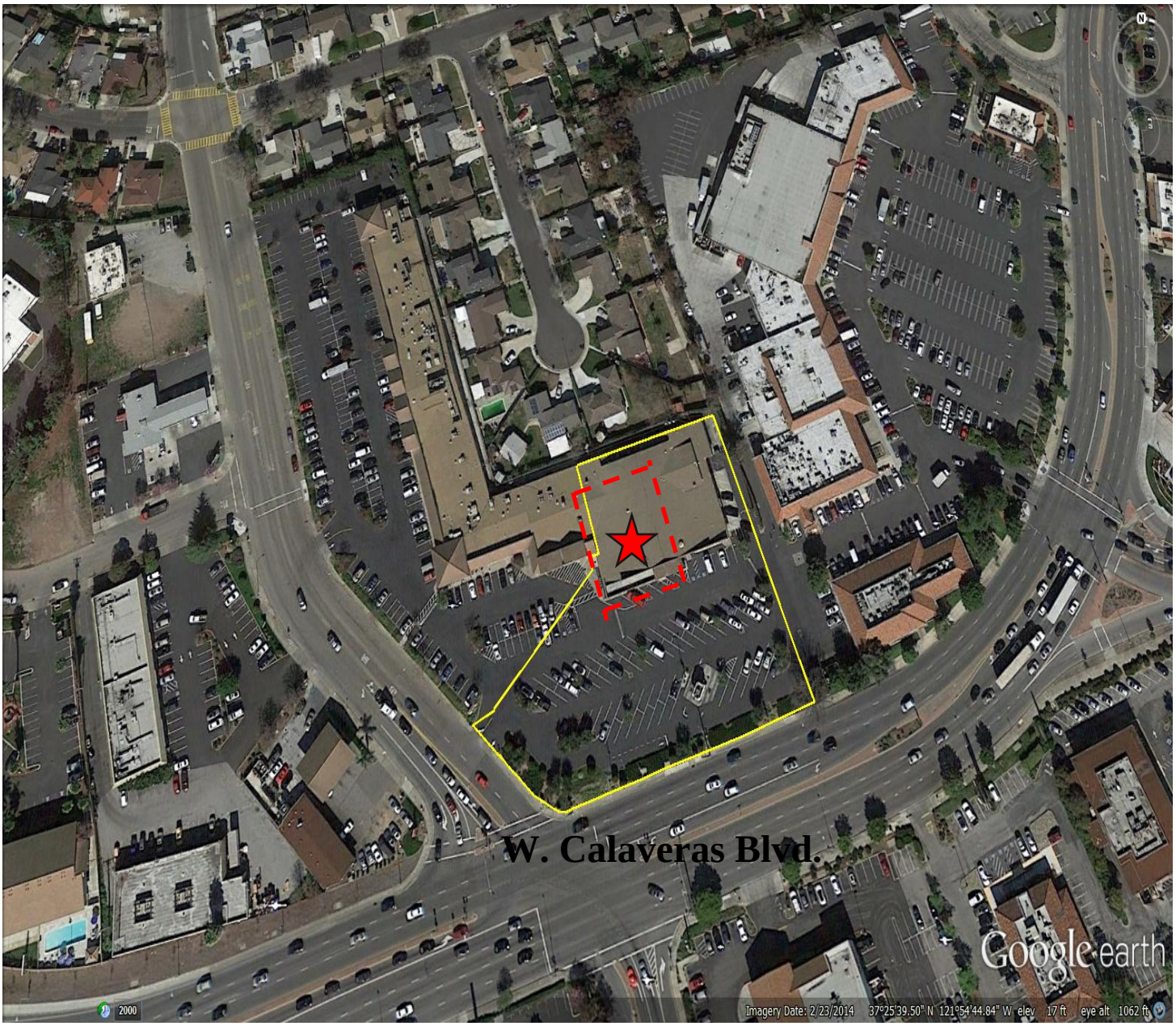
Goodwill of Silicon Valley is requesting a Zoning Text Amendment to conditionally permit thrift store uses in the Neighborhood Commercial (C1) Zoning District; and a Conditional Use Permit for a thrift store use, and a Site Development Permit for site improvements to the existing parking lot in an existing shopping center.

Map 1
Project Location



Map 2

Map 2
Project Site



BACKGROUND

History

On February 26, 1997, the Planning Commission approved a "S" Zone Approval Amendment to permit an internally illuminated neon sign for the retail store Party City at the subject property. Party City closed for business in December of 2013 and the building is currently vacant. Goodwill of Silicon Valley is proposing to operate a Goodwill thrift store use with donation center in the former Party City retail space.

The Application

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

- *Zoning Text Amendment:* Proposed amendment to Table XI-10-5.02-1 of the Zoning Code to change thrift store use from an unpermitted use to a conditionally permitted use in the Neighborhood Commercial (C1) Zoning District with performance standards.
- *Conditional Use Permit:* If the Zoning Text Amendment above is adopted by the City Council, the proposed thrift store use would require a Conditional Use Permit.
- *Site Development Permit:* If the Zoning Text Amendment above is adopted by the City Council, per Section 57.03 of the Milpitas Zoning Code the parking lot improvements require City Council approval of a Site Development Permit.

PROJECT DESCRIPTION

Overview

A request to consider a Zoning Text Amendment to conditionally permit thrift store uses in the Neighborhood Commercial (C1) Zoning District with performance standards; and, a Site Development Permit, and Conditional Use Permit for a new Goodwill retail store, donation center, and associated site improvements located in an existing shopping center. The operational hours for the proposed Goodwill store will be Monday through Sunday from 10:00 a.m. until 6:30 p.m.

A Zoning Text Amendment is required for the project because thrift store uses are currently not permitted in Neighborhood Commercial (C1) Zoning Districts. The proposed text amendment would conditionally permit thrift store uses in the Neighborhood Commercial Zoning District and provide for performance standards for thrift stores. The Neighborhood Commercial (C1) District contains uses and services which primarily provide for the day-to-day shopping needs of nearby residential neighborhoods.

With approval of a Zoning Text Amendment as described above, a Conditional Use Permit would be required for the proposed thrift store use, pursuant to Table XI-10-5.02-1 as seen on Page 6 of the staff report. The proposed thrift store would be required to meet certain performance standards for the use.

A Site Development Permit is required for the proposed parking lot improvements. The reconfiguration of the parking lot includes relocating two existing handicap parking spaces located south west of the building for a proposed new landscape planter with two new olive

trees, groundcover, and irrigation. The two handicap parking spaces are proposed in the front parking area. The applicant proposes to add an additional four parking spaces to the existing parking lot. Three of four new parking spaces will be located on the western portion of the building and dedicated as Goodwill loading zones for members of the public to drop off donations. These spaces will have signage and pavement markings indicating them as temporary loading zones for Goodwill customers only. The one additional parking space proposed will be located along the front of the building.

Location and Context

The project site is located at 311 W. Calaveras Blvd in the Milpitas Center. The site is within the Midtown Specific Plan Area and is zoned Neighborhood Commercial with a Site and Architectural Overlay (C1-S). The property is surrounded by Single Family Residential (R1-6) to the north, Neighborhood Commercial (C1) to the west, and General Commercial (C2) to the east and south. Vicinity and location maps of the subject site location are included on Page 2 and Page 3 of the staff report.

PROJECT ANALYSIS

General Plan and Zoning Conformance

The General Plan designation of the project site is Retail Subcenter (RSC). The zoning designation is Neighborhood Commercial with a Site and Architectural Overlay (C1-S), and is located within the Midtown Specific Plan area. The proposed thrift store use is not currently permitted within the Neighborhood Commercial (C1) Zoning District; hence the applicant has submitted a Zoning Text Amendment application to conditionally permit thrift store uses in the Neighborhood Commercial Zoning District. With approval of a Zoning Text Amendment by the City Council, thrift store uses would be a conditionally permitted use within the Neighborhood Commercial Zoning District, subject to certain performance standards, and the proposed use would be in conformance with the General Plan, Zoning Code, and Midtown Specific Plan.

Proposed Amendments

The proposed Zoning Text Amendment revises three sections of the Zoning Ordinance. The Zoning Amendment will revise: 1) Section XI-10-2.03, Definitions, to create a new definition for the term “thrift store,”; 2) Table XI-10-5.02-1, Commercial Zone Uses, to conditionally permit thrift store uses in the Neighborhood Commercial Zoning District; and, 3) Section XI-10-5.04, Commercial Zone Special Uses, to add performance standards for thrift store uses. The proposed changes are identified below in underline and strike-out text:

Section 2 Definitions
XI-10-2.03 Definitions

“Thrift Store” means any profit or nonprofit business, organization, group or otherwise that engages in or specializes in the sale or resale of previously owned or used goods and merchandise from an area greater than 25 percent of the total floor area devoted to retail sales and whose goods and merchandise are donated or primarily donated. A specialty retail store that sells used goods or merchandise not donated for sale, including but not limited to used

record stores, used book stores, used furniture stores, and sports trading card stores, shall not be considered a Thrift Store for the purpose of this Chapter.

Table XI-10-5.02-1
Commercial Zone Uses

Use	CO	C1	C2	HS	TC
1. Commercial Uses					
Thrift store[3]	NP	C ~~NP~~	P	P	P

XI-10-5.04 Commercial Zone Special Development Standards
C. Neighborhood Commercial (C1) Zone

Thrift stores shall comply with each of the following standards:

1. Signage prohibiting dumping of merchandise during non-business hours shall be installed in conspicuous locations to the satisfaction of the Planning Director indicating penalties and fines for such activity. Signage should include daytime collection hours for donated goods.
2. A designated area inside the building shall be established for the receipt, sorting and processing of goods. Donated goods shall be accepted only inside the building and during regular business hours, no donated goods shall be left outside. Loading and unloading must take place in a designated area that shall be cleared, cleaned and maintained before closing of business each day.
3. The storefront windows shall be permanently maintained as displays of merchandise in a professional and attractive manner (i.e., unsightly clothing racks and displays shall not be placed adjacent to the windows.
4. Any goods or materials left outside of the store overnight shall be removed immediately upon the thrift store opening the next business day.
5. Outdoor storage or display of donated goods or merchandise shall not be permitted.
6. The subject property shall be maintained free of trash, debris, any all other goods at all times.
7. Thrift stores shall not be located closer than five hundred (500) feet from another thrift store.

Site & Architectural Design

The proposed improvements to the existing building include interior modifications such as new partitions, energy efficient lighting, sustainable flooring, and replacement of retail signs. No exterior changes are proposed for the project except a request for signage that will be processed through a separate permit approval.

Parking

The proposed changes to the existing parking lot include creating a loading zone for donations by eliminating two existing handicap parking spaces. The applicant proposes to relocate the two handicap parking spaces to the store front parking area. The applicant proposes to create three new parking spaces that will be designated solely as Goodwill loading zones for members of the public to drop off their donation items through a side door. The proposed loading spaces will have proper signage and pavement markings. The applicant is proposing to remove two parking spaces and in response is proposing to create an additional four parking spaces, for a net total of two new spaces to the existing parking lot. The previous retail use is similar in nature to the proposed use so there is no new parking requirements for the project.

Per Section XI-10-53.09, Table 53.09-1 *Number of Parking Spaces Required* the proposed thrift store use would be interpreted as a Commercial Use – General Retail and Convenience Store. The minimum parking spaces required is 1 per 200 square feet. The existing building is 9,950 square feet, for a total of 50 required parking spaces. Goodwill of Silicon Valley is a retail and donation use that currently meets the parking requirement for the existing commercial center and does not result in the need for additional parking; however, the applicant proposes to create an additional two parking spaces to the existing parking lot.

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.

Zoning Text Amendment (Section XI-10-57.02-3(G))

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

The proposed amendment is consistent with this finding because the proposed project meets the intent of the Retail Subcenter land use designation. The Retail Subcenter is intended to provide "neighborhood shopping facilities that provide for convenience needs, such as groceries and minor hard good purchases." As conditioned, the proposed use is not an intensification of the existing use and will not increase the floor area ratio or development standards for the Retail Subcenter land use designation. This use promotes and encourages neighborhood serving commercial uses while providing Milpitas residents with attractive commercial development which will afford a pleasant shopping environment and complement the essential residential

character of the neighborhood. Specifically, the proposed use supports the following General Plan policies:

- 2.a-G-10: Consider long-term planning and strong land use policy in managing the City's fiscal position.
- 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.
- 2.a-1-29: Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages

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

The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas because the proposed Zoning Amendment to conditionally permit thrift store uses in the Neighborhood Commercial Zoning District will require minimum performance standards and special conditions prohibiting the dumping of merchandise, forbidding outdoor storage of donated goods and materials, the immediate delivery of donated goods and materials inside the building, and limitations on the distance of thrift store uses from one another. The proposed thrift store involves a retail use that complements the existing commercial uses in the shopping center.

Conditional Use Permit (Section XI-10-57.04-1(F))

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

If the City Council approves the Zoning Text Amendment, the project would be consistent with this finding because the proposed retail use will complement the existing commercial tenants in the existing shopping center. No adverse impacts are anticipated for the project regarding traffic or waste generated by the proposed use. Goodwill will not make use of the existing dumpster for the property because all waste generated by Goodwill or unsellable donated items are taken to their reclamation and recycling facilities by their own trucks and equipment.

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

The proposed thrift store use promotes and encourages neighborhood commercial uses while providing Milpitas residents with shopping facilities that provide for convenience needs and promotes business within the City of Milpitas. The project is consistent with the Retail Subcenter land use designation in that the proposed use is an indoor retail and donation service. The proposed use does not increase the floor area ratio, density, or development standards for the Retail Subcenter land use designation. Specifically, the proposed use supports the following General Plan policies:

- 2.a-G-10: Consider long-term planning and strong land use policy in managing the City's fiscal position.
- 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.
- 2.a-1-29: Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages

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

If the City Council approves the Zoning Text Amendment, the proposed project would be consistent with this finding because the proposed use complies with the development standards for the Neighborhood Commercial Zoning District. The project proposes no exterior changes to the building in terms of existing setbacks, floor area ratio, and height regulations. The proposed thrift store use complements the purpose and intent of the Neighborhood Commercial Zoning District by proving attractive commercial development and a retail store that is accessible to Milpitas residents of all ages. The proposed thrift store is a complementary commercial use and will not generate a more intense use than otherwise would be allowed in the existing shopping center and will not result in the need of additional parking spaces.

The applicant proposes to reconfigure the parking area to create three spaces to be designated by signage and pavement markings for Goodwill loading zones. In total, the applicant proposes to remove two parking spaces, while creating an additional four spaces for a net total of two extra spaces to the shopping center. Per Section XI-10-53.09, Table 53.09-1 *Number of Parking Spaces Required* the proposed thrift store use would be interpreted as a Commercial Use – General Retail and Convenience Store. The minimum parking spaces required is 1 per 200 square feet. The existing building is 9,950 square feet, for a total of 50 required parking spaces. Goodwill of Silicon Valley is an indoor retail and donation use that currently meets the required amount of parking spaces for the existing commercial center and does not result in the need for additional parking; however, the applicant proposes to create an additional two parking spaces to the existing parking lot.

4. *The proposed use is consistent with the Midtown Specific Plan.*

If the City council approves the Zoning Text Amendment, the proposed use would be consistent with this finding because the proposed project meets the objective of the Midtown Specific Plan. The "overall strategy in the Midtown Area is to create a mixed-use community that includes high-density, transit-oriented housing and a central community "gathering place," while maintaining needed industrial, service, and commercial uses." The proposal conforms to the Midtown Specific Plan by encouraging a compatible retail use to an existing commercial shopping center. As conditioned, the proposed use will not result in an intensification of the existing use and will not increase the floor area ratio or development standards for the Retail Subcenter land use designation of the Midtown Specific Plan. Specifically, the proposed use supports the following Midtown Specific Plan goals and policies:

- Goal 1: Encourage a compatible mixture of residential, retail, office, service-oriented commercial, and industrial uses within the Midtown area.

- Policy 3.16: Provide for the continuation of retail development along the Calaveras Boulevard corridor

Site Development Permit (Section XI-10-57.03-1(F))

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

The project is consistent with this finding because the proposal does not impact circulation for the existing shopping center by creating a designated loading zone for Goodwill customers to drop off donations. The proposal to reconfigure the parking lot includes removing two existing parking spaces located south west of the building for a proposed new landscape planter with two new olive trees, groundcover, and irrigation. The applicant proposes to create an additional four parking spaces to the existing parking lot. Three of four new parking spaces will be located on the western portion of the building and dedicated as Goodwill loading zones for members of the public to drop off donations. The three proposed loading spaces will have signage and pavement markings indicating them as loading zones for Goodwill customers only. The one additional parking space proposed will be located along the store front of the building. No changes will be made to the exterior of the building.

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

If the City Council approves the Zoning Text Amendment, the project would be consistent with this finding because the proposed use complies with the development standards for the Neighborhood Commercial (C1) Zoning District. The project proposes no exterior changes to the building in terms of existing setbacks, floor area ratio, and height regulations. The proposed thrift store use complements the purpose and intent of the Neighborhood Commercial (C1) Zoning District by proving attractive commercial development and a retail store that is accessible to Milpitas residents of all ages. The proposed thrift store is a complementary commercial use and will not generate a more intense use than otherwise would be allowed in the existing shopping center and will not result in the need of additional parking spaces.

The applicant proposes to reconfigure the parking area to create three spaces to be designated by signage and pavement markings for Goodwill loading zones. In total, the applicant proposes to remove two parking spaces, while creating an additional four spaces for a net total of two extra spaces to the shopping center. Per Section XI-10-53.09, Table 53.09-1 *Number of Parking Spaces Required* the proposed thrift store use would be interpreted as a Commercial Use – General Retail and Convenience Store. The minimum parking spaces required is 1 per 200 square feet. The existing building is 9,950 square feet, for a total of 50 required parking spaces. Goodwill of Silicon Valley is an indoor retail and donation use that currently meets the required amount of parking spaces for the existing commercial center and does not result in the need for

additional parking; however, the applicant proposes to create an additional two parking spaces to the existing parking lot.

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

The proposed thrift store use promotes and encourages neighborhood commercial uses while providing Milpitas residents with shopping facilities that provide for convenience needs and promotes business within the City of Milpitas. The project is consistent with the Retail Subcenter land use designation in that the proposed use is a retail and donation service. The proposed use does not increase the floor area ratio, density, or development standards for the Retail Subcenter land use designation. Specifically, the proposed use supports the following General Plan policies:

- 2.a-G-10: Consider long-term planning and strong land use policy in managing the City's fiscal position.
- 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.
- 2.a-1-29: Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages

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

The proposed amendment is consistent with this finding because the proposed project meets the objective of the Midtown Specific Plan. The "overall strategy in the Midtown Area is to create a mixed-use community that includes high-density, transit-oriented housing and a central community "gathering place," while maintaining needed industrial, service, and commercial uses." The proposal conforms to the Midtown Specific Plan by encouraging a compatible retail use to an existing commercial shopping center. The proposed use will not result in an intensification of the existing use and will not increase the floor area ratio or development standards for the Retail Subcenter land use designation of the Midtown Specific Plan. Specifically, the proposed use supports the following Midtown Specific Plan goals and policies:

- Goal 1: Encourage a compatible mixture of residential, retail, office, service-oriented commercial, and industrial uses within the Midtown area.

- Policy 3.16: Provide for the continuation of retail development along the Calaveras Boulevard corridor

ENVIRONMENTAL REVIEW

The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15301 of the CEQA Guidelines, Existing Facilities, because the project does not result in a change of use, rather it maintains a commercial use for an existing building. The project is also exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines in that the project has no potential to cause a significant effect on the

environment. Staff has determined that amending the Zoning Text Ordinance to conditionally permit thrift store uses in the Neighborhood Commercial Zoning District has no potential to cause a significant effect on the environment because the project includes a commercial retail use occupying a vacant retail tenant space and no changes are proposed to alter the size, purpose, and capacity of the existing commercial building. Further, conditionally permitting retail thrift stores, subject to certain performance standards, in areas designated for similar retail uses meets the intent of the zoning district to provide for the provision of commercial goods and services to nearby neighborhoods.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there has been one inquiry from the public regarding the location of the project. A notice was published in the Milpitas Post on May 30, 2014. (Two Fridays before the meeting) In addition, 580 notices were sent to owners and occupants within (1,000 feet) of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CITY COUNCIL REVIEW

This project requires review by the City Council and is tentatively scheduled on the August 5, 2014 Council agenda.

CONCLUSION

The proposed thrift store use at the proposed location is compatible in that it is within an existing commercial shopping center and will not increase traffic or noise to the surrounding businesses because the proposed project is a similar retail use resulting in no increase in square footage or intensification of use for the existing shopping center. The proposed project does not result in the need for additional parking; however, the applicant proposes to create an additional two parking spaces to the existing parking lot. The proposed use will not increase the floor area ratio for the existing commercial building and does not generate a more intensive use than intended for the commercial center.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct public hearing;
2. Adopt Resolution No. 14-024 recommending the City Council adopt Zoning Text Amendment No. ZA14-0002 to conditionally permit thrift store uses in Neighborhood Commercial (C1) Zoning District; and, approve Site Development Permit No. SD14-0008, and Conditional Use Permit No. UP14-0010 to permit the operation of Goodwill retail store and associated site improvements at this location.

ATTACHMENTS

A: Resolution No. 14-024
B. Ordinance Exhibit No. 38.816
C. Project Plans
D. Statement of Operations

E: Informational Pictures