



# MILPITAS PLANNING COMMISSION AGENDA REPORT

January 14, 2015

**APPLICATION:** TOWN CENTER ZONING AMENDMENT – ZA14-0011 – A request for a Zoning Text Amendment to expand the purpose and intent section of the Town Center Zoning District and prohibit ground level residential uses.

**RECOMMENDATION:** Staff recommends that the Planning Commission: Conduct the public hearing and adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words “mixed use” residential to the purpose and intent section of the Town Center Zoning description and to prohibit ground floor residential in the Town Center zone.

**LOCATION:**  
Address/APN: Town Center Zoning District

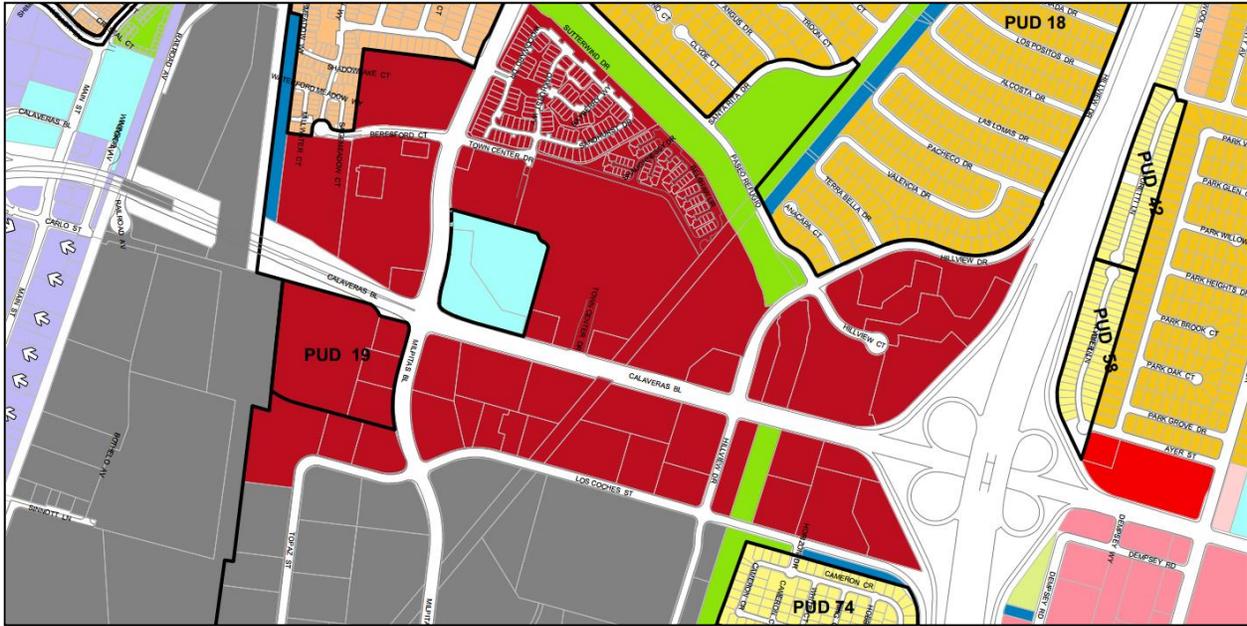
**PEOPLE:**  
Project Applicant: City of Milpitas  
Consultant: NA  
Property/Business Owners:  
Project Planner: Adam Petersen, Senior Planner

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

**ENVIRONMENTAL:** The project is exempt in accordance with the California Environmental Quality Act (CEQA) Sections 15061(b)(3) “Review for Exemptions.”

## Map 1

### Project Location



**Town Center Zoning District**

Not to Scale

## BACKGROUND

### *History*

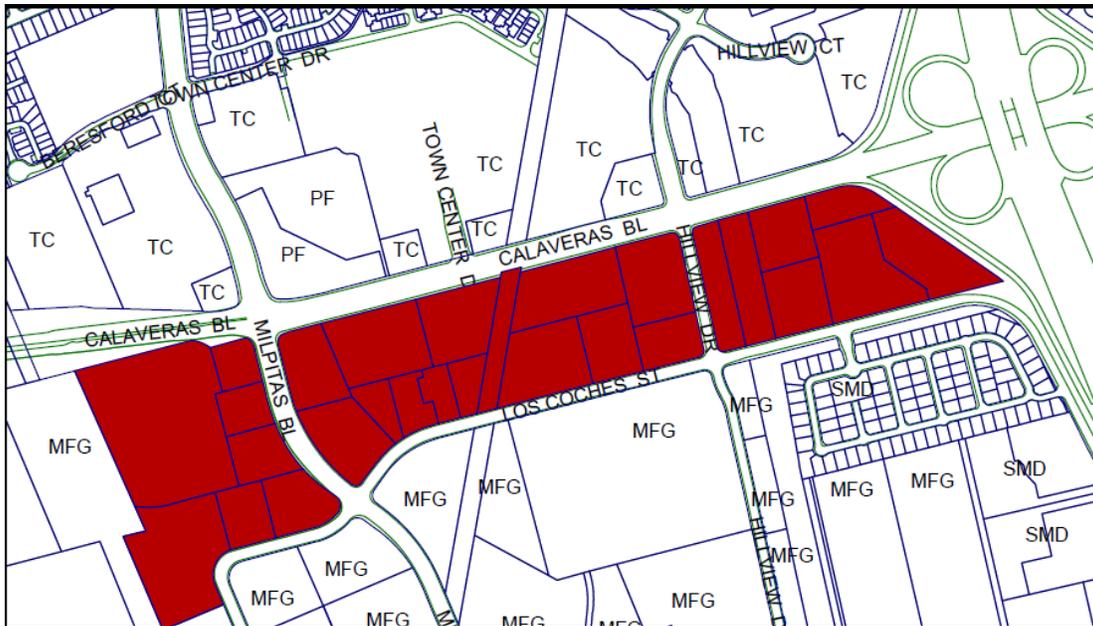
The Town Center land use designation and zoning district applies to the central part of the City, generally focused along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor. The intent of the Town Center land use designation and zoning district is to support a wide range of administrative, business, entertainment, residential, dining and cultural activities in the geographic center of the City.

In 2010, the Town Center designation was amended and expanded to include a collection of parcels to the south of Calaveras Boulevard. The purpose of the amendment was to make the existing uses on these parcels (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) conforming and allow for the flexibility of integrating other commercial and residential uses for future development. Since the redesignation of these parcels to Town Center some land use conversion to single-family residential development has occurred. A map of the expansion area is included below as Map 2.

On May 21, 2013, the City Council approved an amendment to Zoning Code to allow live/work units as a conditional use in the Town Center Zoning District.

## Map 2

### 2010 Town Center Expansion Area



#### ***The Application***

On December 10, 2014 the City of Milpitas Planning and Neighborhood Services Department prepared an application pursuant to Section 57 of the Milpitas Zoning Ordinance for a Zoning Amendment. The following is a summary of the request:

- *Zoning Amendment:* To modify the Milpitas Zoning Code, adding the words “mixed use” residential to the description of the Town Center zone, and prohibiting ground floor residential in the Town Center zone.

#### **PROJECT DESCRIPTION**

---

##### ***Overview***

The project includes a Zoning text amendment to modify the description and a use in the Town Center zoning district. The General Plan’s vision for the Town Center is a “meeting place and a market place, the home of commercial and profession firms, an entertainment area and a place for restaurants and hotels.” Low density single family residential uses are inconsistent with the identified vision and uses for the Town Center.

The existing Town Center Zoning provisions enable low density single-family residential development, as evidenced by the conversion of commercial and industrial properties to single family residential subdivisions along the south side of Calaveras Boulevard. The current trend of converting commercial and industrial properties to single family residential subdivisions is inconsistent with the intent and purpose of the Town Center zone. The Town Center Zone is

intended to support a wide range of uses, including, but not limited to, commercial, business and entertainment uses.

The proposed amendment is similar to other provisions of the Milpitas Zoning Code. The first proposed modification adds the words “mixed-use” to the intent and purposes section for the Town Center zone. The “mixed-use” residential would allow residential over commercial space in support of the vibrant “meeting place and market place” that the town center is intended to be, and is consistent with the Zoning Code’s standards of allowing residential development with approval of a use permit from the Planning Commission. The two following modifications would prohibit ground floor residential uses, which are reflected in other existing provisions in the Zoning Code that facilitate mixed use development. This amendment would preserve existing and future commercial uses, professional firms, and entertainment uses by limiting the conversion of the area to residential uses as intended for this zone.

### ***Location and Land Use***

The proposed amendment applies to the Town Center zoning district, the areas of which are coterminous. The Town Center zoning district is located in central Milpitas, generally along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor as shown in Map 1. Existing uses include the Town Center retail shopping center, restaurants, a variety of professional office buildings, banks and financial institutions, City Civic Center, hotels, and single- and multi-family residential uses.

## **PROJECT ANALYSIS**

---

### ***Proposed Amendment***

The proposed amendment changes three portions of the Zoning Code:

- The Zoning Amendment will affect the description of the Town Center Zone;
- The prohibited uses; and
- Table XI-10-5.02-1 Commercial Zone Uses.

The proposed changes are identified below in underline:

### **XI-10-5.01 – Purpose and Intent**

- E. Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, mixed-use residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City’s transportation network.

### **XI-10-5.02.B - Prohibited Uses. The following uses are prohibited:**

1. Uses where the symbol "NP" appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
3. Ground floor residential in the TC Zone, provided any ground floor residential constructed on or before February 17, 2015 and any project securing an approved tentative map or site development permit for construction of ground floor residential on or before February 17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.

**Table XI-10-5.02-1 Commercial Zone Uses**

Use	CO	C1	C2	HS	TC
<b>9. Residential Uses</b>					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Live-Work Units	NP	NP	NP	NP	C
Residential dwellings (between 1 and 40 d.u. per gross acre) <u>ground floor residential is prohibited.</u>	NP	NP	NP	NP	C
Single-room occupancy residences <sup>10</sup>	NP	NP	NP	C	NP

***Nonconforming Uses***

Section 56 of the Milpitas Zoning Code would place limits on the amount a structure could be rebuilt in the event of a disaster as well as limits on additions to structures with ground floor residential uses. In order to avoid any potential for existing residential uses being designated legal nonconforming uses, under Section 56 of the Zoning Code, staff considered an exemption to this portion of the Code.

Staff received feedback at the community meeting on January 5, 2015 that residents were concerned about the ability to acquire and maintain adequate insurance should their homes become legal nonconforming uses. Staff has addressed this concern by proposing that the existing and approved residential uses be exempt from the new changes to the Zoning Code prohibiting ground floor residential and Section 56 of the Milpitas Zoning Code relating to Legal Nonconforming Uses. The proposed exemption would ensure that existing and approved residential uses can continue to enjoy the same rights and privileges prior to the text amendment. Additionally, if there is a natural disaster that requires redevelopment of an entire existing subdivision, it will not be impacted by the restrictions in the nonconforming provisions of the Zoning Code.

**FINDINGS**

---

Pursuant to Section 57 of the Zoning Code, the Planning Commission is required to make specific Findings before recommending approval of a Zoning Amendment. Findings shall identify the rationale behind the decision to take a certain action. Each code-required Finding is analyzed below.

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

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

Prohibiting residential uses on the ground floor and encouraging more commercial and mixed-used developments meet the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a

meeting and market place for commercial, professional and entertainment uses. The more efficient use of land through higher density housing will ensure land is available for the continued focus of a mixed-use district that provides identity for the City while allowing a dense residential population to provide increased economic support to the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

**Guiding Principle 2.a-G-2** – Maintain a relatively compact urban form.

**Guiding Principle 2.a-G-4** – The Town Center will be the “heart” of Milpitas’ civic, cultural, business and professional life.

**Guiding Principle 2.a-G-10** – Consider long term planning and strong land use policy in managing the City’s fiscal position.

**Land Use Policy 2.a-I-27** – Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas’ identity and image.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by directing mixed-use development to achieve a compact, urban form; it also uses land more efficiently and will allow for additional commercial and other tax-generating uses at the street level, thereby strengthening the City’s fiscal position while achieving a mixed-use district in the heart of Milpitas.

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

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, conditionally permitted residential uses will continue to be conditionally permitted at the same development intensity. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial and mixed use development to provide economic opportunities for the City and residents.

## **ENVIRONMENTAL REVIEW**

---

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed project is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The proposed project is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) of the State CEQA guidelines, which excludes projects that are covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed amendment does not directly authorize any individual project. Additionally there are no projects under review that would be affected by the proposed amendment. Subsequent activities require further analysis by the City in order to determine the potential impacts from development. Therefore, the proposed action qualifies for this exemption and no further environmental review is required.

**PUBLIC COMMENT/OUTREACH**

Prior to this public hearing, staff conducted a community meeting in accordance with the provisions specified in Table XI-10-64.04-1. The community meeting occurred on January 5, 2015. Comments received during this meeting included a discussion on potential mixed use building heights, the purpose of the Town Center Zone, and the City’s vision for this Zone. Residents expressed concerns about ground floor residential uses, namely existing single family homes, becoming non-conforming uses, which could make attaining and retaining insurance as well as constructing additions difficult. Staff has addressed this concern by proposing that the existing and approved residential uses be exempt from the new changes to the Zoning Code prohibiting ground floor residential and Section 56 of the Milpitas Zoning Code relating to Legal Nonconforming Uses.

Two residents sent emails to staff with questions surrounding the subject of the Zone text amendment. Staff provided a response that detailed the proposed amendment which satisfied the residents’ questions.

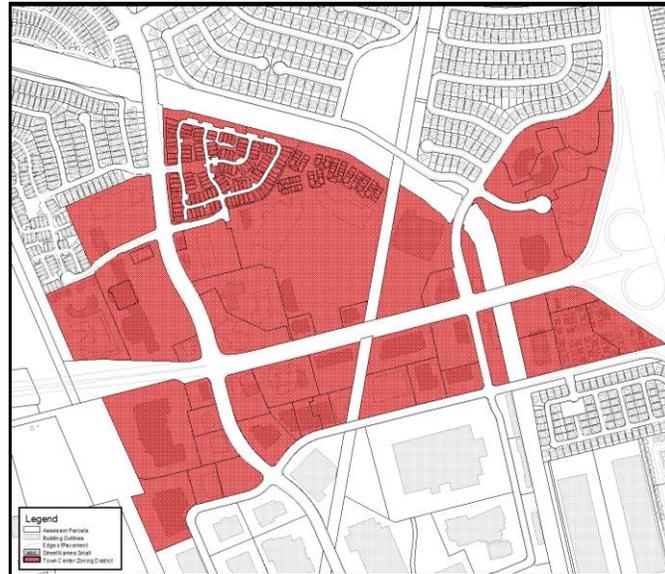
Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public. The table below provides a summary of the City’s public noticing efforts for this project.

**Public Noticing Summary**

<b>Notice of Public Hearing</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>▪ Public hearing notice posted in the Milpitas Post (<i>14 days prior to the hearing</i>)</li> <li>▪ 227 notices mailed to affected property owners within Town Center designation (<i>10 days prior to the hearing</i>)</li> <li>▪ Posted on the City's official notice bulletin</li> </ul>	<ul style="list-style-type: none"> <li>▪ Posted on the City's official notice bulletin board (<i>5 days prior to the hearing</i>)</li> <li>▪ Posted on the City of Milpitas’s Web site (<i>one week prior to the hearing</i>)</li> </ul>

board (10 days prior to the hearing)

The map below illustrates the extent of the mailed notices.



## **CITY COUNCIL REVIEW**

---

This item is scheduled as a public hearing by the City Council on February 3, 2015.

## **CONCLUSION**

---

The proposed Zoning Text Amendment will update the Municipal Code to reflect the desired uses for the Town Center district. The prohibition of ground floor residential uses in an area intended for a dense compact form and a vibrant mixed-use district is consistent with the General Plan and Zoning Ordinance and supports the City principles of a Town Center as the “heart” of Milpitas. Staff recommends that the Planning Commission adopt Resolution No. 15-001 recommending approval by the City Council.

## **RECOMMENDATION**

---

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments;
2. Close public hearing;
3. Adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words “mixed-use” residential to the Town Center description, and to prohibit ground floor residential in the Town Center zone and exception.

## **ATTACHMENTS**

- A. Resolution No.15-001
  - a. Exhibit A: Draft Ordinance