



# MILPITAS PLANNING COMMISSION AGENDA REPORT

February 25, 2015

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**APPLICATION:** TOWN CENTER GENERAL PLAN AMENDMENT, ZONING AMENDMENT, AND ENVIRONMENTAL IMPACT ASSESSMENT – GP15-0001, ZA14-0011, and EA15-0001 – A request for a General Plan Amendment, Zoning Text Amendment and Environmental Impact Assessment to prohibit all new residential uses in the Town Center Zoning District.

**RECOMMENDATION:** Staff recommends that the Planning Commission: Conduct the public hearing and adopt Resolution No. 15-009 recommending the City Council adopt General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and approving Environmental Impact Assessment EA15-0001 to prohibit all new residential uses from the Town Center Zoning District.

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

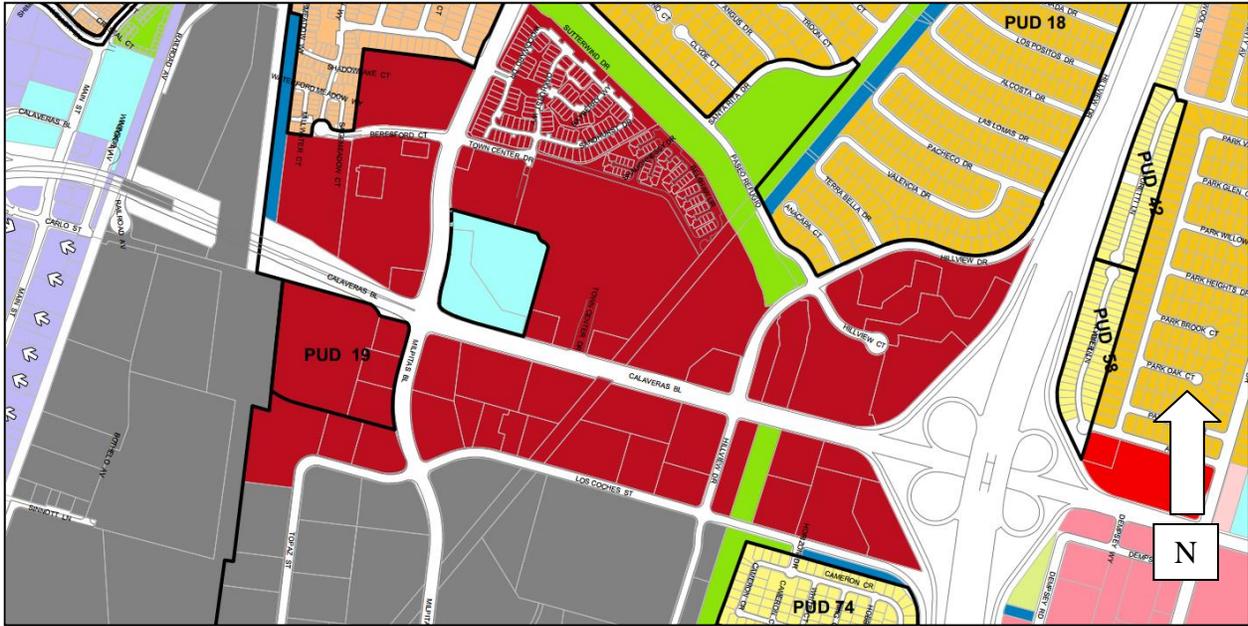
**PEOPLE:**  
Project Applicant: City of Milpitas  
Consultant: NA  
Property/Business Owners:  
Project Planner: Adam Petersen, Senior Planner

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

**ENVIRONMENTAL:** The project is subject to the California Environmental Quality Act and an Initial Study/Negative Declaration have been prepared and determined that the project will not have an impact on the environment.

# Map 1

## Project Location



Town Center Zoning District

Not to Scale

## BACKGROUND

### History

On February 3, 2015, the City Council conducted a duly noticed public hearing to amend the Zoning Code to eliminate new first floor residential uses, and direct commercial, retail, entertainment and restaurant type uses in the first floor of new or redevelopment in the Town Center Zone. The City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center, while preserving the status and land use for existing and previously entitled residential development.

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 Town Center comprises 132 acres, of which currently 26.9 acres consist of residential uses with 408 residences. The 408 residential units does not include the 25 approved, but not constructed, units in the 75 South Milpitas project. 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, Agenda Item IX-3: Town Center Zone Amendment

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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.

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.

## **PROJECT DESCRIPTION**

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### ***Overview***

The project includes a General Plan Amendment, Zoning Text Amendment, and associated Environmental Impact Assessment to remove and prohibit new residential uses in the Town Center. Existing residential uses would be allowed to continue in the Town Center as a previously permitted use. Additionally, any residential projects with City Council entitlements on or before February 17, 2015 will be grandfathered and exempt from the General Plan and Zoning changes. The City Council approved the 75 South Milpitas project on January 6, 2015. The project consists of 25 residential units, with five live-work units that has not been constructed at the time of this report. Two other projects will also fall under the proposed grandfathering provisions. The City Council approved the Cobblestone project on May 7, 2013. The project is currently under construction and consists of 28 single family residential units and four live-work units. The City Council approved the Orchid project on January 15, 2013. It consists of 80 single family homes and is currently under construction. The proposed grandfathering provisions will apply to the Orchid, Cobblestone, and 75 South Milpitas Boulevard projects, as well as all existing and built residential units in the Town Center district.

The current Town Center General Plan description and Zoning provisions authorize residential uses and redevelopment of vacant or underutilized lands to residential uses. These residential uses include low density single-family residential, mixed-use, and live-work development. Single family and live-work projects have been approved in the Town Center, as evidenced by the conversion of commercial and industrial properties along the south side of Calaveras Boulevard. The current trend of converting commercial and industrial properties to single family residential subdivisions or other types of residential developments are 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. Amendments to the General Plan and Zoning Code will prohibit any new residential uses in the Town Center Zoning District.

### ***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**

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### ***Proposed Amendments***

The proposed amendment affects three portions of the General Plan, which are as follows:

1. Table 2-3 on page 2-8: Remove footnote on residential density in Town Center.
2. Table 2-4 on page 2-10: Remove discussions on residential density in Town Center.
3. Town Center Land Use Designation on Pages 2-13 and 2-14: Remove references to residential uses.
4. Implementing Policy 2.a-I-27 on page 2-33: Remove references to mixed-use developments.

The amendment would also affect three portions of the Zoning Ordinance, which are as follows:

1. Section XI-10-5.01.E: Remove references to “residential uses” in the Purpose and Intent description of the Town Center Zone.
2. Section XI-10-5.02.B: Adding language to prohibiting new residential uses in Town Center.
3. Table XI-10-5.02-1: Remove live-work and residential uses from the land use table in Town Center.

The proposed changes are redlined and attached to the draft resolution as part of the Planning Commission packet and shown below:

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-9

**Table 2-3 - Standards for Density and Development Intensity**

General Plan Land Use Designations	Zoning Districts																
	R1-H	R1-6	R1-5	R1-4	R1-3	R1-2.5	R2	R3	CO	C1	C2	HS	TC	M1	M2	MP	A
HILLSIDE																	
Very Low Density	●																
Low Density	● <sup>3</sup>																
Medium Density	● <sup>3</sup>																
VALLEY FLOOR																	
S.F. <sup>1</sup> Low Density		● <sup>(5)</sup>															● <sup>5</sup>
S.F. Moderate Density			● <sup>(6)</sup>	● <sup>(8)</sup>	● <sup>(10)</sup>	○ <sup>(15)</sup>											● <sup>5</sup>
M.F. <sup>2</sup> Medium Density							● <sup>(11)</sup>										● <sup>5</sup>
M.F. High Density								● <sup>(20)</sup>									● <sup>5</sup>
Mobil Home Park		● <sup>(7)</sup>					● <sup>(7)</sup>	● <sup>(8)</sup>				● <sup>4</sup>	● <sup>(8)</sup>				● <sup>5</sup>
Prof/Admin. Office									●								● <sup>5</sup>
Retail Subcenter										●							● <sup>5</sup>
General Commercial											●						● <sup>5</sup>
Highway Service												●		●			● <sup>5</sup>
Industrial Park																●	● <sup>5</sup>
Manufacturing														●	●		● <sup>5</sup>
Town Center													●				● <sup>5</sup>

<40> Maximum number of dwelling units per gross acre when specific findings are made.

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-10

**Table 2-4 - Standards for Density and Development Intensity**

Land Use Designation	Residential Density (units/gross acre)	Maximum Permitted Floor-Area Ratio — FAR	Residential Population	
			Persons/Housing Unit	Persons/Acre
Commercial-Town Center	up to 40 n.a.	0.85	Varies <sup>6</sup> n.a.	Varies <sup>6</sup> n.a.

<sup>6</sup> Depends on the density of housing provided.

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-13 – 2-14

**Town Center:** This designation provides for a variety of commercial, ~~and civic and residential~~ uses appropriate to the Center's role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. ~~Because of this unique and relatively intensive mix of activities, very high density residential developments (i.e., up to 40 units per acres) may be permitted within the~~

~~Town Center because of the increased economic support the residents would offer to the commercial uses.~~

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-33

**Implementing Policy 2.a-I-27** Develop the Town Center as an architecturally distinctive ~~mixed-use~~ complex which will add to Milpitas' identity and image.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

**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, ~~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.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

**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. Any residential uses in the Town Center Zone shall strictly be prohibited provided residential uses constructed on or before February 17, 2015 or any project securing an approved tentative map or site development permit for construction of residential on or before February 17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

**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
<del>Live-Work Units</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>	<del>G</del>
<del>Residential dwellings (between 1 and 40 d.u. per gross acre)</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>	<del>G</del>
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 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**

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

### ***General Plan Amendment (Section XI-10-57.02.G.1a)***

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

The proposed amendment is internally consistent with other elements of the General Plan. Removing the residential density provisions, description of residential uses, and the words mixed-use from Policy 2.a-I-27 from the Town Center Land Use Designation will not affect other portions of the General Plan. The Housing Element has anticipated residential growth in other land use designations throughout the City. Properties in the Town Center land use designation are not located the Regional Housing Needs Allocation List or on the list of potential housing sites. There are no other references to residential uses in the Town Center located in the General Plan. The vision for the Town Center, as expressed by Council, is for a thriving commercial, office, entertainment, and cultural district. The proposed amendment focuses these types of uses in the Town Center and therefore promotes economic development in the City of Milpitas. Therefore, the proposed amendment is internally consistent.

- 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. As previously discussed, the Housing Element identifies numerous sites throughout the City to accommodate residential development. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. The proposed amendments will facilitate commercial, office, entertainment and cultural uses in the Town Center district. 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 development to provide economic opportunities for the City and residents.

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

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

Prohibiting residential uses and encouraging more commercial development meets 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. Prohibiting new residential uses will ensure land is available for the continued focus of a commercial district that provides identity for the City while allowing the surrounding residential development to support 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.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by using 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 commercial 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, previously approved permitted and conditionally permitted residential uses will

continue to be allowed. 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 development to provide economic opportunities for the City and residents.

## **ENVIRONMENTAL REVIEW**

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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 Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). A Negative Declaration was prepared and circulated from February 5, 2015 to February 25, 2015. A Finding is proposed that the project will not have a significant effect on the environment because no significant impacts were identified in the Initial Study. The project will not expand the range of uses in the TC area of the City and will not intensify the uses already prescribed by the Town Center Zone. Instead, it will minimize the amount of uses that can occur there and will therefore limit the range of environmental impacts.

## **PUBLIC COMMENT/OUTREACH**

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Staff conducted a community meeting on January 5, 2015 to discuss the initially proposed Zone Text Amendment. Two citizens expressed concerns regarding the proposed amendment’s effect on existing residential uses. Those concerns were alleviated when the provision to continue to allow existing residential was included with the amendment. The project was subsequently heard at the January 14, 2015 Planning Commission meeting and at the February 3, 2015 City Council meeting.

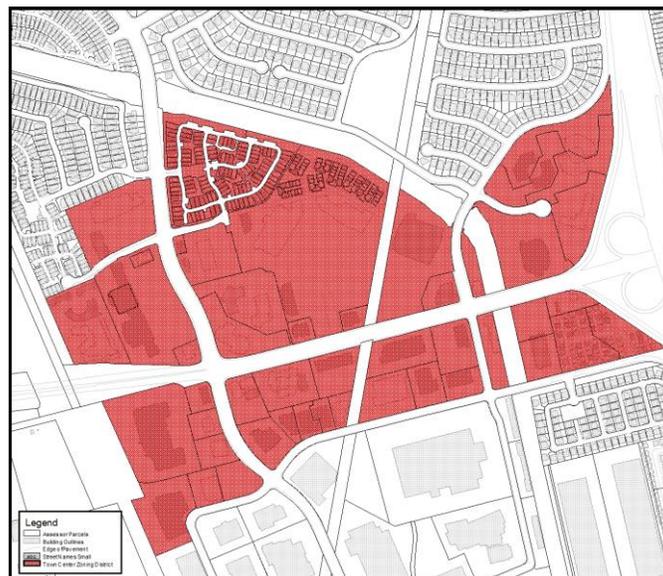
At the February 3, 2015 City Council meeting, staff received direction to prepare an amendment that would prohibit new residential uses in the Town Center, and to bring the project back to Council at the next available meeting. Subsequent to that meeting, staff received an email from a member of the public opposing the proposed General Plan and Zoning Text Amendment. The citizen supported mixed-use residential development in the Town Center as a way to distinguish the area. The email is included in Attachment B.

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

Notice of Public Hearing	Agenda
<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>▪ 450 notices mailed to affected property owners and residents within Town Center designation (<i>10 days prior to the hearing</i>)</li> <li>▪ Posted on the City's official notice bulletin board (<i>10 days prior to the hearing</i>)</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>

The map below illustrates the extent of the mailed notices.



### **CITY COUNCIL REVIEW**

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This item is scheduled as a public hearing by the City Council on March 17, 2015.

### **CONCLUSION**

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The proposed General Plan Amendment and Zoning Text Amendment will update the General Plan and Municipal Code to reflect the desired uses for the Town Center district. The prohibition of residential uses in an area intended for a dense compact form and a vibrant commercial and retail 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. 15-009 recommending approval by the City Council.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments;
2. Close public hearing;
3. Adopt Resolution No. 15-009 recommending the City Council adopt **General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and approving Environmental Impact Assessment EA15-0001 to prohibit all new residential uses from the Town Center Zoning District, based on the above findings.**

## **ATTACHMENTS**

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- A. Resolution No.15-009
  - a. Exhibit A: Draft Revisions to General Plan
  - b. Exhibit B: Draft Ordinance