

REGULAR

NUMBER: 38.781

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA, AMENDING TITLE XI CHAPTER 10 FOR THE PURPOSE OF APPROVING ZONING AMENDMENT NO. ZA08-0006 REMOVAL OF TRANSIT ORIENTED DEVELOPMENT OVERLAY

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by Councilmember _____ and was adopted (second reading) by the City Council at its meeting of _____ upon motion by Councilmember _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS AND FINDINGS RELATED TO THE MIDTOWN SPECIFIC PLAN AMENDMENTS REMOVING REFERENCES TO THE TRANSIT ORIENTED DEVELOPMENT OVERLAY IN THE ZONING ORDINANCE TEXT AND RELATED MAPS

WHEREAS, in 2002, the City Council of the City of Milpitas certified an environmental impact report (EIR) for and formally adopted the planning document known as the Midtown Specific Plan in accordance with the California Environmental Quality Act (CEQA) and other provisions of California law; and

WHEREAS, in 2008, the City Council certified an EIR for and formally adopted the planning document known as the Transit Area Specific Plan in accordance with the California Environmental Quality Act (CEQA) and other provisions of California law and

WHEREAS, in the adoption of the Transit Area Specific Plan, the scope of the Midtown Specific Plan was reduced by removing some of the areas designated therein and placing them within the planning provisions of the Transit Area Specific Plan; and

WHEREAS, City Staff now wishes to make minor changes to the Milpitas Zoning Ordinance and the planning documents referenced therein in order to remove outdated references, text, and figures, clarify the location of planned transit uses, and eliminate redundancies that resulted from the adoption of the Transit Area Specific Plan and the movement of regulated areas from the provisions of the Midtown Specific Plan to the Transit Areas Specific Plan; and

WHEREAS, City Staff specifically wishes to make minor changes to the zoning code provisions of Title XI of the Milpitas Municipal Code (Zoning Amendment ZA08-0006) by removing certain references therein to the Transit Oriented Development (TOD) overlay and by amending the Zoning Map referenced therein to remove the TOD delineation in the northern Midtown Specific Plan area of the City of Milpitas, State of California, as further depicted in the map contained in Exhibit 1; and

WHEREAS, the Milpitas Planning Commission held a duly noticed public hearing on July 23, 2008 on the amendments proposed by City Staff, received reports and evidence prepared by staff and heard comments from the public, and recommended approval of the aforementioned amendments by the City Council; and

WHEREAS, the City Council finds that the proposed amendments to the Milpitas Zoning Ordinance and the maps referenced therein are exempt from CEQA pursuant to: (a) CEQA Guideline 15162, since all potentially significant effects have been adequately analyzed in the earlier EIR's and other environmental documents for the Midtown Specific Plan, the Transit Area Specific Plan, and zoning code provisions adopted thereto, pursuant to applicable legal standards, and/or have been avoided or mitigated pursuant to those earlier environmental documents and (b) CEQA Guideline 15061(b)(3), since there is not possibility that the proposed amendments could have a significant effect on the environment; and

WHEREAS, the City Council finds that with the inclusion of the proposed amendments, the Zoning Ordinance would remain internally consistent.

ORDAINING CLAUSE:

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 2. Chapter 10, Section 12.06(B) of Title XI of the Milpitas Municipal Code is hereby amended in its entirety to read as follows, with deletions in ~~striketrough~~ font:

--BEGIN SECTION--

10-12.06 Transit Oriented Development (-TOD) Overlay District

B. Applicability

The "-TOD" overlay can be combined with any zoning district on lands that are generally within a 2,000 foot walk from a rail transit station. If any of the regulations specified in the "-TOD" overlay district differ from any corresponding regulations of any district with the "-TOD" Overlay district is combined, then the provisions of the "-TOD" Overlay district shall govern. (Ord. 38.759 (part), 4/2/02)

~~TOD developments within a 2,000 foot radius of the Northern BART station may only apply the twenty percent (20%) reduction once a decision on the location and viability of the Northern BART station has been made by the City Council. (Ord. 38.761 (part), 5/20/03; Ord. 38.759 (part), 4/2/02)~~

SECTION 3. The Zoning Map of the City of Milpitas and the sectional District Map of the City of Milpitas, referenced in Milpitas Municipal Code XI-10-3.03, is hereby amended by removing the delineation of the Transit Oriented Development (TOD) overlay in the northern portion of the Midtown Specific Plan, a copy of which is attached hereto and incorporated herein as Exhibit 1. Such maps shall be kept in uncodified form and be made available for public review at the office of the City Clerk or his or her designee.

SECTION 4. RECITALS AND FINDINGS RELATED TO THE TRANSIT AREA SPECIFIC PLAN ZONING MAP AMENDMENT

SECTION 5. The Zoning Map of the City of Milpitas and the sectional District Map of the City of Milpitas, referenced in Milpitas Municipal Code XI-10-3.03, is hereby amended by ----- a copy of which is attached hereto and incorporated herein as Exhibit 1. Such maps shall be kept in uncodified form and be made available for public review at the office of the City Clerk or his or her designee.

SECTION 6. RECITALS AND FINDINGS RELATED TO THE ZONING TEXT AND MAP AMENMDMENT FOR LANDMARK TOWERS

SECTION 7. Chapter 10, Section ----- of Title XI of the Milpitas Municipal Code is hereby amended in its entirety to read as follows, with deletions in ~~strike through~~ font and additions in *italicized* font:

SECTION 8. The Zoning Map of the City of Milpitas and the sectional District Map of the City of Milpitas, referenced in Milpitas Municipal Code XI-10-3.03, is hereby amended by ----- a copy of which is attached hereto and incorporated herein as Exhibit 1. Such maps shall be kept in uncodified form and be made available for public review at the office of the City Clerk or his or her designee.

SECTION 9. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 10: PUBLICATION AND EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after adoption, and thereafter the same shall be in full force and effect. Prior to the expiration of 15 days from the passage thereof, this Ordinance shall be published at least once in a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara. At the election of the City, this Ordinance may be published in summary form if prior to adoption the complete text is posted in the City Clerk's Office pursuant to Government Code Section 36933(c).



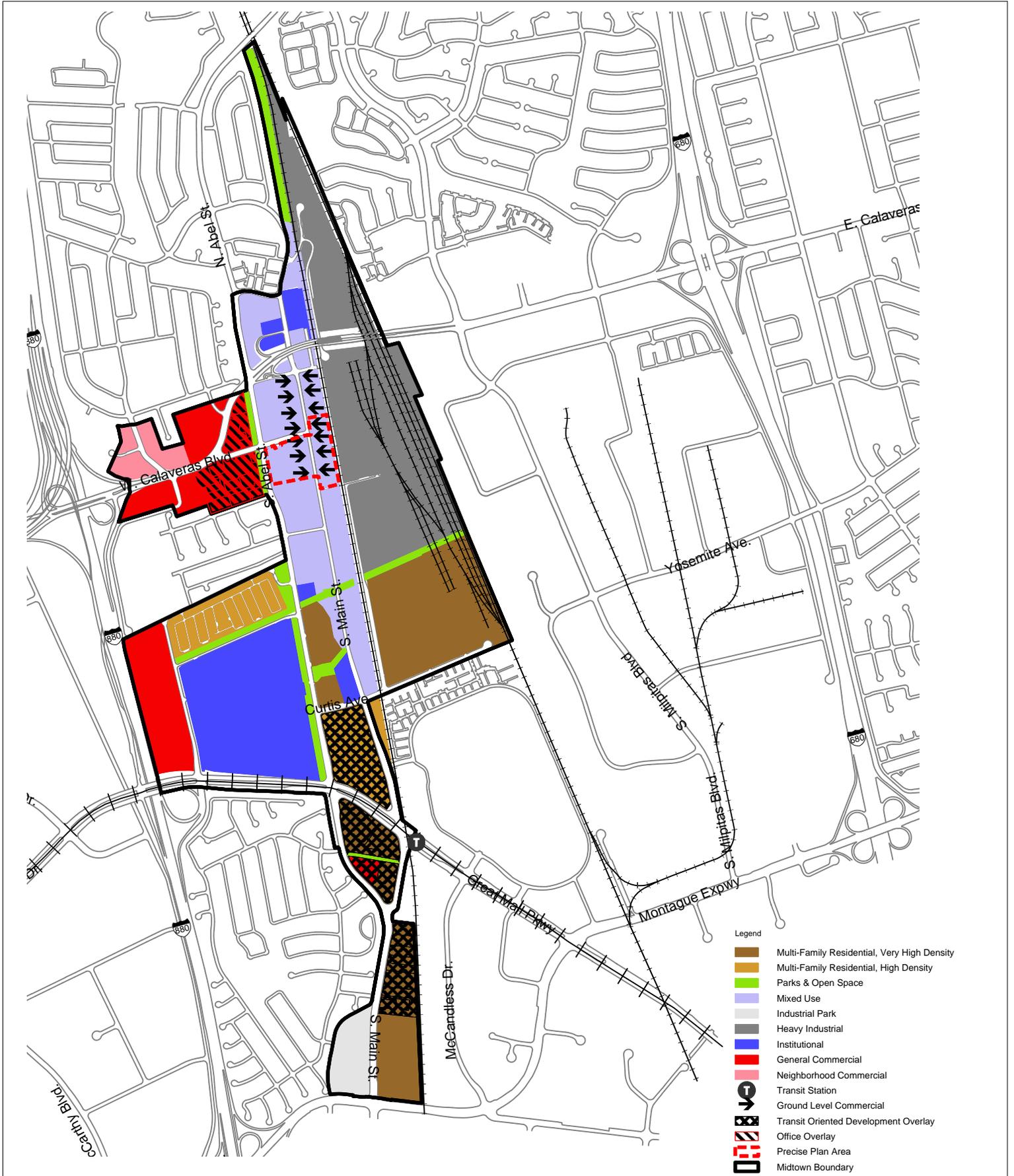
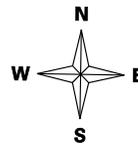
City of Milpitas

Midtown Specific Plan Area

Sectional District Map No. 573

Exhibit 1

July 2008





MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: July 23, 2008

APPLICATION: **Midtown Specific Plan Amendment (ST2008-0001)**
General Plan Amendment (GP08-0003)
Zoning Ordinance Amendment (ZA08-0006)

**APPLICATION
SUMMARY:**

Amend the Midtown Specific Plan to bring into conformance with recently adopted Transit Area Specific Plan. Amend the General Plan and Zoning Maps to remove the TOD Overlay in the northern Midtown Area. Amend Zoning Ordinance to remove the TOD Overlay in the northern Midtown Area.

LOCATION:

Midtown Area: Areas roughly bounded by the Union Pacific Railroad lines on the east and north; Abel Street and Elmwood Rehabilitation Center on the west; and the City limits to the south.

APPLICANT:

City of Milpitas

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1. Close the public hearing; and**
- 2. Adopt Resolution No. 08-030 recommending approval of the amendments to the Midtown Specific Plan, General Plan and Zoning Maps.**

CEQA Determination:

Environmental Impact Report (EIR) adopted by Resolution No. 7150 on March 19, 2002 by the Milpitas City Council for the Midtown Specific Plan. Proposed amendments to the Midtown Specific Plan reduce the scope of the Plan and therefore do not require subsequent environmental analysis.

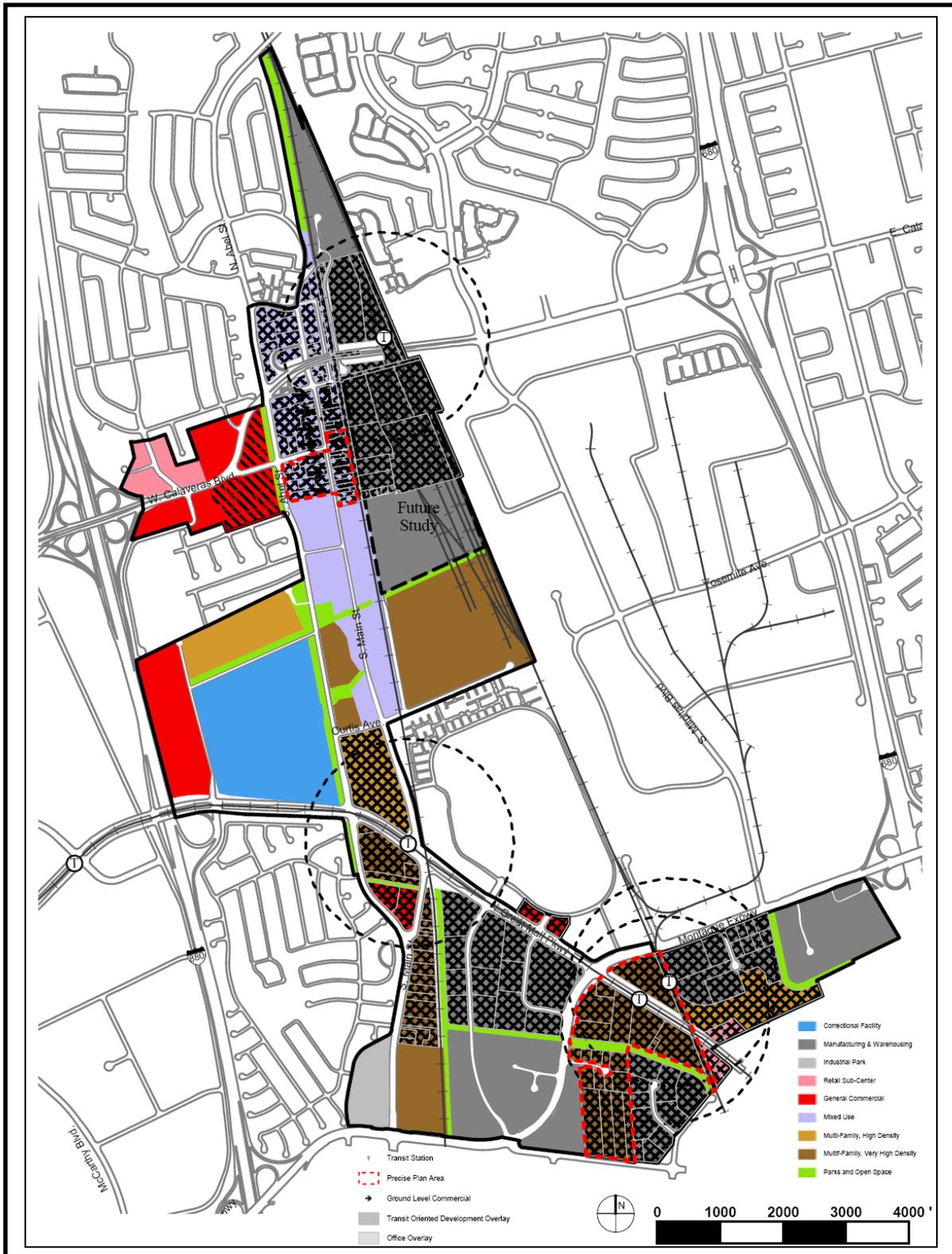
PLANNER:

Julie Moloney, Associate Planner

ATTACHMENTS:

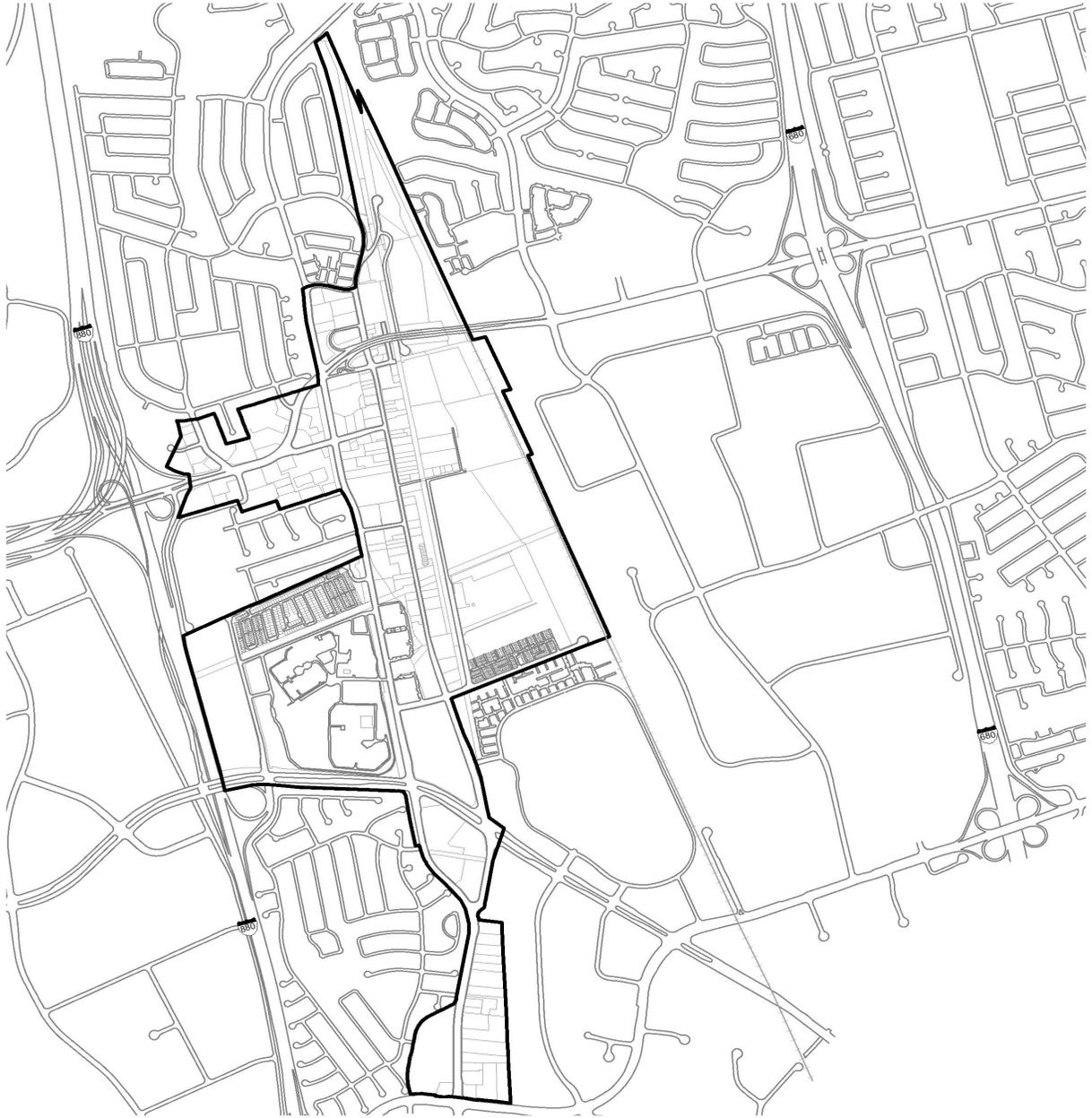
- A. Planning Commission Resolution No. 08-030
Exhibit 1: Midtown Specific Plan Text Amendments (Legislative Style)
Exhibit 2: Midtown Specific Plan Table and Figure Amendments
Exhibit 3: General Plan Map Amendment
Exhibit 4: Zoning Map Amendment
Exhibit 5: Zoning Text Amendment

LOCATION MAP



Existing Midtown Specific Plan Area

LOCATION MAP



Proposed Midtown Specific Plan Area

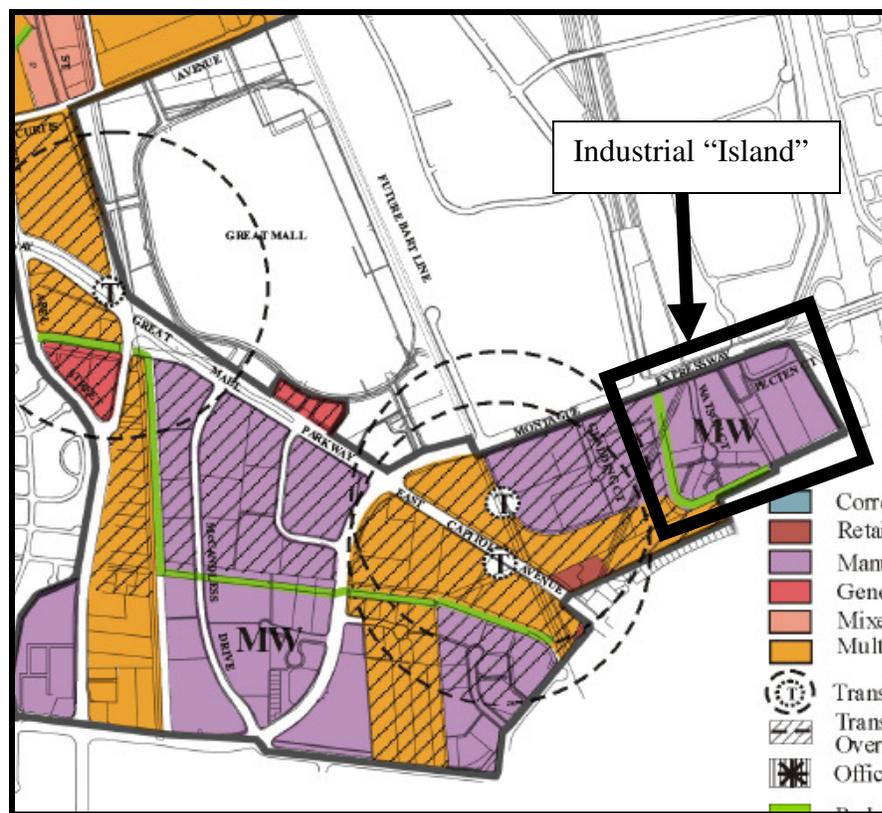
BACKGROUND

The Midtown Specific Plan was adopted in 2002 as a guiding policy document for the Midtown area. The Plan identifies opportunities for development, redevelopment and preservation, as well as specific development standards for the area. On June 3, 2008, the Milpitas City Council adopted the Transit Area Specific Plan (TASP). This plan was developed in response to Policy 7.5 of the Midtown Specific Plan that required the preparation of a coordinated development plan for the area identified as the Capitol Avenue High-Density Residential Zone. The TASP overlaps approximately 100 acres of the Midtown Plan. Amendments to the Midtown Specific Plan, General Plan and Zoning Ordinance are necessary to change the boundary of the Midtown Specific Plan, change any figures, policies and references that are now captured by the TASP and update the General Plan and Zoning Ordinance accordingly.

PROJECT DESCRIPTION

The proposed Midtown Specific Plan amendments are intended to comprehensively update the Midtown Specific Plan by acknowledging the TASP, removing references to the areas now encompassed by the TASP, as well as updating other text and figures. Removing the area encompassed by the TASP from the Midtown Specific Plan will create an industrial “island” of the Midtown area at the southeastern edge of the area boundary. This amendment includes the removal of that industrial area from the Midtown Specific Plan in order to avoid disjointed sections of the Plan area.

Figure 1
Industrial “Island” Proposed for Removal from Midtown Specific Plan



Furthermore, the General Plan and Zoning Maps are proposed to be amended, removing the Transit Oriented Development (TOD) Overlay in the northern area of the Plan. This overlay was included in the Midtown Specific Plan in anticipation of a future BART station at Calaveras Boulevard. It is anticipated that only one BART station will be located within the area now encompassed by the TASP. Removing the overlay from the General Plan and Zoning Maps will help clarify current property development potential and avoid speculation on a future station in the area.

Finally, the “TOD” Transit Oriented Development Combining District section of the Zoning Ordinance, is proposed to be amended by removing Subsection 2 under “Off Street Parking.” This Subsection refers to parking reductions for developments within the TOD overlay in the northern Midtown area. It is recommended to remove all development standards pertaining to it.

For specific changes to the text and figures please see Exhibits 1-5 (underline/strikeout) of Attachment A (Resolution 08-030).

Midtown Specific Plan

The proposed amendments to the Midtown Specific Plan include changes to all eight sections of the document. The specific text and map changes are provided as Exhibits A and B to Planning Commission Resolution No. 08-030. The most significant changes are proposed to Section 2, *The Site and Its Context*; Section 3, *Land Use*; Section 4, *Circulation*; and Section 6, *Utilities and Public Services*, where references to properties, streets and transit stations in the southern portion of the planning area were deleted, infrastructure and service demands were modified and references to the northern TOD Overlay were removed.

The Site and Its Context

The Midtown Specific Plan references the future extension of the Tasman East Light Rail Line (LRT) and the Future BART extension. The LRT extension is now in place, while the BART extension is still under study. In addition to minor clarifying text changes, the amendments to this section modify the site context to identify that the LRT is in place. Furthermore, the Great Mall Project Area is now part of the TASP and therefore removed from the Midtown Specific Plan.

This section also identifies the land uses in the Midtown area and breaks the area down into percentage of land use in relation to acreage. Since the TASP removed a significant portion from the Midtown area, the breakdown of acreage has changed. Rather than updating the figures to reflect the new acreages, the amendments include removing references to the specific acreage numbers in order to allow more flexibility for the document in the future. The context and history of the plan, however, will be captured in Table 2.1, which identifies the breakdown of acreage when the plan was originally adopted in 2002.

Land Use

Throughout the document, projected unit counts and commercial square footages are referenced. Table 1 identifies the breakdown of acreage and project development between the original and modified plan.

Table 1 **Acreage Breakdown**

	Original Midtown Specific Plan	Amended Midtown Specific Plan
Acreage	942 acres	850 acres
Projected Units	4,860 units	2,860 units (1,700 of which have been built, 600 more approved)
Commercial/Retail	362,000 sq. ft.	351,000 sq. ft.
Office	720,000 sq. ft.	720,000 sq. ft.
Open Space	49 acres	44 acres

Total estimated units for the Midtown area equal approximately 2,860. Of these units, 1,700 have been built since the original adoption of the plan, and 600 more units have been approved, leaving the possibility for approximately 1,100 units possible.

The Land Use section contains language on the Transit-Oriented Development Overlay Zones, and in particular, the North Midtown TOD Overlay area, where a BART station was proposed to be located. All references to the North Midtown TOD Overlay area are proposed to be removed. The Land Use Section also references the Tasman East LRT Station at Capitol Avenue, as well as the Capitol/Montague BART Station. These transit stations are now located within the TASP and all references are proposed to be removed from the Midtown Specific Plan.

Circulation

Policies 4.2, 4.4, 4.8, and 4.10 were modified to remove references to transit stations in the TASP as well as proposed street improvements in this area. Policy 4.6 identifies the closure of a portion of Carlo Street in order to improve traffic conditions at the intersection of Abel Street and Calaveras Boulevard. This improvement has been completed; therefore the policy is proposed to be deleted. Policies 4.14 and 4.17 are applicable to locations and improvements within the TASP and are proposed to be deleted as well. Subsequent policies in the section are proposed to be renumbered.

Utilities and Public Services

Section 6 of the Midtown Specific Plan, is proposed to be updated to reflect the new projected demands on City services and infrastructure. These updated figures include water and sewer demand, and police services. The figures are based on a total dwelling unit projection of 2,860 units, 103 acres of Manufacturing and Warehousing, 11.8 acres of Industrial Park uses, 9.3 acres of Retail Sub-Center, 49.9 acres of General Commercial and 72.6 acres of Mixed Use.

Tables and Figures

The figures were primarily modified to identify the new Midtown boundary and remove the northern TOD Overlay. Additional changes to the plan sections include minor text changes and table updates for acreage, land uses and specific references to the areas now encompassed by the Transit Area Specific Plan.

General Plan

The proposed General Plan amendment is a change to the General Plan Map to remove the Transit Oriented Development Overlay designation. The proposed change is reflected in Exhibit 3 to the Planning Commission Resolution.

Zoning Ordinance

The proposed Zoning Ordinance amendment is a change to the Zoning Map to remove the Transit Oriented Development Overlay district and to amend the “TOD” Transit Oriented Development Combining District of the Zoning Ordinance to remove Subsection 2 of the Off-Street Parking Section to be consistent with the change to the General Plan. The proposed changes are reflected in Exhibits 4 and 5 of the Planning Commission Resolution.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The Midtown Specific Plan amendments include removal of references to the areas now encompassed by the Transit Area Specific Plan. The removal of these references would make the document consistent with the General Plan. No new land uses or policies are being introduced. The removal of the TOD Overlay from the Zoning Map will bring the map into conformance with the General Plan Map.

Zoning Ordinance

The Midtown Specific Plan amendments do not include changes to development standards, zoning or land use designations, or other modifications that would effect the Zoning Ordinance. The development standards applicable to the Midtown Area are still in affect. The removal of the TOD Overlay from the General Plan Map will bring the map into conformance with the Zoning Map.

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA), an EIR was prepared for the original Midtown Specific Plan and was certified in 2002. The proposed amendments to the Midtown Specific Plan reduce the original scope of the plan, removing residential and commercial density. Therefore, staff has determined that no additional environmental review is required.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the proposed amendments in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The Midtown Specific Plan amendments, General Plan and Zoning amendments are intended to clean up the documents and maps and ensure that they are consistent with other adopted plans. No new policies or development standards are proposed for the document.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 08-030 recommending that the City Council approve ST2008-0001 Midtown Specific Plan Amendment, GP08-0003 General Plan Amendment and ZA08-0006 Zoning Amendment.

Attachments:

- A. Planning Commission Resolution No. 08-030
 - Exhibit 1: Midtown Specific Plan Text Amendments (Legislative Text)
 - Exhibit 2: Midtown Specific Plan Table and Figure Amendments
 - Exhibit 3: General Plan Map Amendment
 - Exhibit 4: Zoning Map Amendment
 - Exhibit 5: Zoning Text Amendment