

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 November 18, 2008, upon motion by Councilmember Polanski 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

Robert Livengood, 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to make minor changes to the Milpitas Zoning Ordinance and the planning documents referenced therein in order to remove outdated references, text, and figures, clarify the location of planned transit uses, and eliminate redundancies that resulted from the adoption of the Transit Area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).



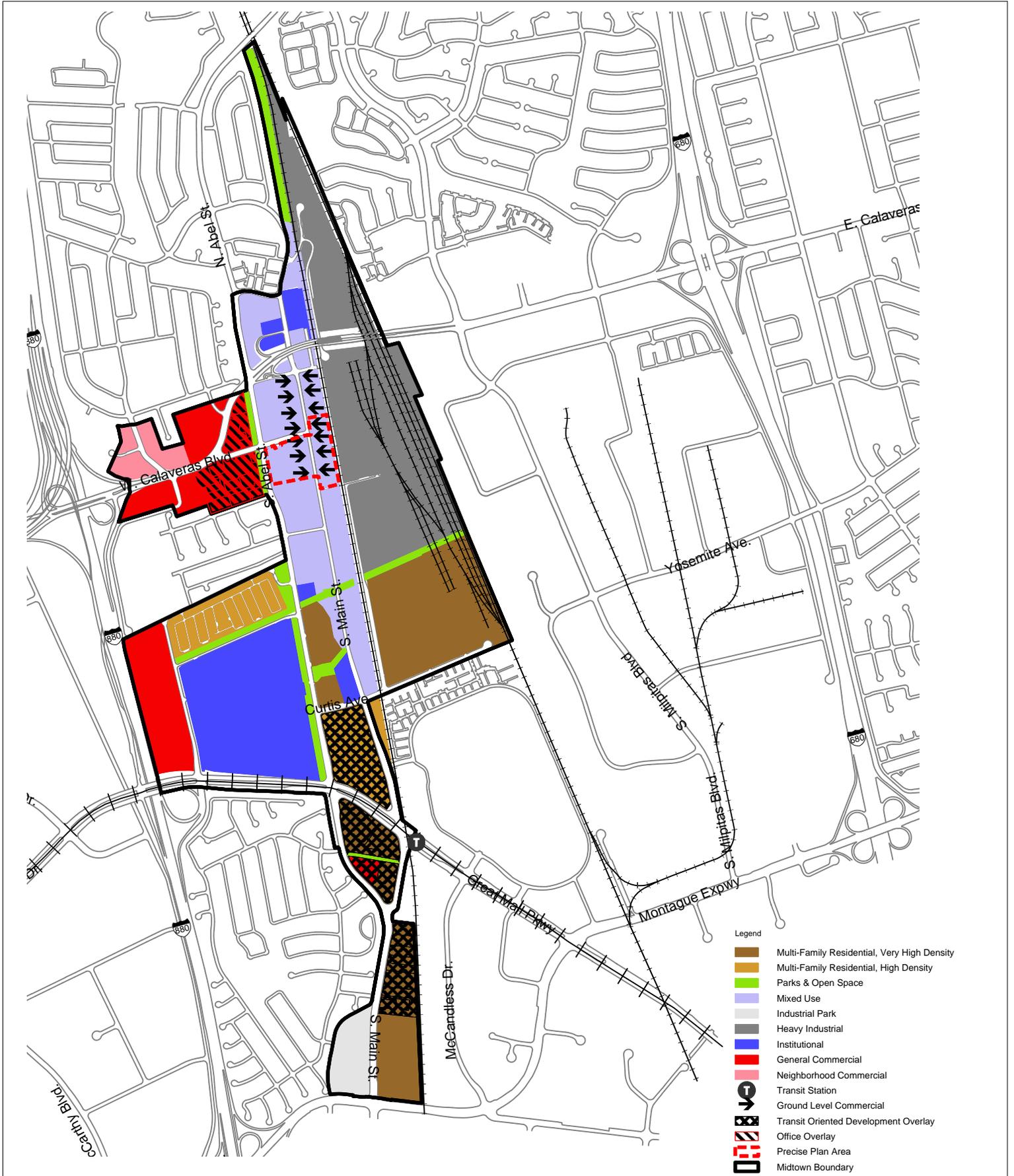
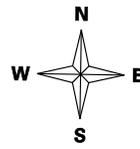
City of Milpitas

Midtown Specific Plan Area

Sectional District Map No. 573

Exhibit 1

November 2008



- Legend
- Multi-Family Residential, Very High Density
 - Multi-Family Residential, High Density
 - Parks & Open Space
 - Mixed Use
 - Industrial Park
 - Heavy Industrial
 - Institutional
 - General Commercial
 - Neighborhood Commercial
 - Transit Station
 - Ground Level Commercial
 - Transit Oriented Development Overlay
 - Office Overlay
 - Precise Plan Area
 - Midtown Boundary