

REGULAR

NUMBER: 38.800

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS CHANGING THE ZONING OF APPROXIMATELY 24 ACRES LOCATED ALONG MONTAGUE EXPRESSWAY AND TRADE ZONE BOULEVARD FROM VERY HIGH DENSITY MIXED USE (MXD3) TO HIGH DENSITY TRANSIT ORIENTATED RESIDENTIAL (R3)

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of November 15, 2011, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, D.R. Horton submitted an application for a General Plan Amendment, Zoning Amendment, and Transit Area Specific Plan Amendment for the rezone of approximately 24 acres located along Montague Expressway and Trade Zone Boulevard.

WHEREAS, the Planning Commission held a properly noticed public hearing opened on September 28, 2011, and continued to October 26, 2011, in which it considered evidence presented by City staff and other interested parties, and recommended approval of the zoning amendment; and

WHEREAS, the City Council finds that the zoning amendment would be consistent with the amended General Plan and the Transit Area Specific Plan in that a change from Very High Mixed Use (MXD3) to High Density Transit Oriented Residential (R3) would still maintain the compact, transit-oriented community envisioned by those documents; and

WHEREAS, the City Council finds that proposed amendment will not adversely affect the public health, safety and welfare in that the proposed rezone would provide for the harmonious development of new housing and infrastructure near retail and commercial uses and mass transit opportunities; and

WHEREAS, the City Council finds that with the inclusion of this Zoning Map amendment, the Zoning Ordinance would remain internally consistent; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and reviewed whether further environmental documentation was needed in light of the previous preparation of the program Environmental Impact Report (EIR) for the Transit Area Specific Plan, adopted on June 3, 2008, by the City Council.

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF THE CITY OF MILPITAS ZONING SECTIONAL MAP

The Zoning Map of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Chapter XI-10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code of said City, is hereby amended by changing zoning map designations for approximately 24 acres of land along Montague Expressway from Very High Density Mixed Use (MXD3) to High Density Transit Oriented Residential (R3), as set forth in Exhibit 1. All necessary related index entries and textual references are also hereby amended. This Zoning Map shall be kept in uncodified form and shall be made available upon request from the Director of Planning & Neighborhood Services.

SECTION 3. ENVIRONMENTAL CLEARANCE

The Zoning Map changes to the Zoning Code do not require any additional environmental documentation under CEQA when reviewed in the light of the previously prepared Transit Area Specific Plan EIR, adopted by the City Council on June 3, 2008, , pursuant to Section 15168(c) of the CEQA Guidelines. The proposed changes to the Zoning Map provide for reduced density and therefore do not raise any environmental effects that were not previously examined in the program EIR. No new effects could occur and no new mitigation measures would be required for the proposed activities.

SECTION 4. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 5. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

