

**REGULAR**

**NUMBER: 38.805**

**TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE FOR THE PURPOSE OF A MAP AMENDMENT TO THE CITY'S ZONING SECTIONAL MAPS FOR THE SOUTH BAY TECH REZONE FROM INDUSTRIAL PARK TO GENERAL COMMERCIAL**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of August 7, 2012, upon motion by Vice Mayor McHugh 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**, on March 27, 2012, an application was submitted by Brandy Krechel with SB Tech LLC, 3090 Pullman Street, Costa Mesa, CA 92626, seeking to amend the City’s Zoning Sectional Map to change the designation of a 11.17-acre parcel site located at 1603-1787 S. Main Street (APN 86-21-073) from Industrial Park (MP-S) to General Commercial(C2-S); and

**WHEREAS**, on June 12, 2012, a community outreach meeting on the project was held at Zanker Elementary School; and

**WHEREAS**, the Planning Commission held a properly noticed public hearing on June 27, 2012, at which time it considered evidence presented by City staff and other interested parties, and recommended approval of the zoning change; and

**WHEREAS**, the proposed zoning change will be consistent with the amended General Plan and Midtown Specific Plan in that it would promote General Plan guiding principles and implementing policies 2.a-G-1, which encourages a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center. The proposed change would also be consistent with Implementing Policy No. 2.a-G-6, in that it furthers the implementation of the Midtown Specific Plan by creating a mixed-use community that includes residential, service-oriented commercial, and industrial uses; 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 needed commercial uses that could operate in a compatible manner with continued, conditionally permitted industrial uses; 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 the City Council held a public hearing on August 7, 2012, on the rezone application and considered staff’s determination that on the basis of the whole record that there is no substantial evidence that the project will have a significant effect on the environment. A Negative Declaration was publicly circulated for 20 days from May 30, 2012 through June 19, 2012. After duly considering the materials presented to it and hearing public testimony on the matter, the City Council adopted the Negative Declaration for the proposed rezone and associated General Plan and Midtown Specific Plan amendments and the issuance of a conditional use permit for continued industrial operations. This Negative Declaration reflects the City’s independent judgment and analysis.

**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 MAPS AND ZONING ORDINANCE**

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 adding a new Section District No. 580, a copy of which is attached hereto as Exhibit 1 and incorporated herein, and which shall be kept in uncodified form and be available upon request from the Planning Division of the City of Milpitas. All necessary related index entries and textual references are also hereby amended.

**SECTION 3. 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 4. 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.



# City of Milpitas New Zoning Designation Sectional District Map No. 580 Exhibit 1

## Legend

-  General Commercial
-  Parcel Boundary

