

REGULAR

***12**

NUMBER: 38.814

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO A NEW PLANNED DEVELOPMENT ZONING DISTRICT

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of April 1, 2014, upon motion by Councilmember Giordano 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, establishment of a Planned Development Zoning District, sometimes referred to as a “Planned District,” is a common practice of zoning regulation to govern land use and development proposals in a coordinated and consistent approach; and

WHEREAS, the purpose of a Planned Development Zoning District is to encourage and provide a method to achieve desirable development and improvement of land with variations in building siting, design and orientation, mixed land uses, varied housing or building types, and incorporation of public improvements while creating desirable design character and land use compatibility; and

WHEREAS, the City of Milpitas currently has provisions for a Planned Unit Development (PUD) Permit, which is a similar but different approach for regulating specific development proposals since the PUD provisions do not constitute a rezoning of the property, but rather issuance of a PUD permit for a development plan in substantial compliance with the property’s zoning district; and

WHEREAS, a Planned Development Zoning District can prove valuable to allow larger, more complex development projects that do not meet the strict regulation of standard zoning districts while gaining public improvements or benefits; and

WHEREAS, given the rapidly changing market and economic conditions of Silicon Valley, and the pace of development processing, a Planned Development Zoning District may assist in achieving a well-designed built environment while providing the owner/developer assurance that their project is vested through zoning; and

WHEREAS, on February 12, 2014, the Planning Division initiated a process to amend the Milpitas General Plan and Zoning Ordinance to create a new Planned Development Zoning District; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the City Council determine this project exempt under CEQA Guidelines Section 15061(b)(3) because the Zoning Code amendments provides a framework for a new Planned Development Zoning District and any future applications for a specific development project under the Planned Development Zoning District will be subject to CEQA review; and

WHEREAS, on March 12, 2014, the Planning Commission held a duly-noticed public hearing on the subject application, and considered evidence presented by City staff and other interested parties and adopted a resolution recommending the City Council adopt an ordinance to amend the Zoning Ordinance to create a Planned Development Zoning District.

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. FINDINGS

Zoning Amendment (Section XI-10-57.02(G)(3)) - The City Council makes the following findings based on the evidence in the public record in support of the Zoning Amendment:

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

The proposed amendment is consistent with this finding because a new Planned Development Zoning District is created in the General Plan by this Resolution and a new General Plan guiding principle is added to the General Plan to implement

the Planned Development Zoning District. The proposed amendment has been analyzed against the General Plan and is internally consistent with other portions not being amended.

2. *The proposed amendment will not adversely affect the public health, safety and welfare.*

The proposed amendment is consistent with this finding because the nature of Planned Development Zoning District is to allow flexibility in zoning, land use and development standards. Future implementation of the ordinance is subject to consistency with the general Plan, as well as all other codes, policies and regulations of the City of Milpitas which address the safety and welfare of the community. For these reasons, the proposed amendment will not adversely affect the community, nor the public health, safety or welfare of the City of Milpitas.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Section 10-3.01 entitled “Districts” of Chapter 10, Title XI of the Milpitas Municipal Code is hereby amended to read as follows:

XI-10-3.01 Districts

In order to carry out the purpose and provisions of this Chapter, the City is hereby divided into districts known as:

Full Name	Short Name
"R1" Single-Family District	"R1" District
"R2" One and Two-Family District	"R2" District
"R3" Multiple-Family District	"R3" District
"R4" Multiple Family Very High Density District	"R4" District
"R5" Urban Residential	"R5" District
"AR" Agricultural Residence	"AR" District
"CO" Administrative and Professional Office District	"CO" District
"C1" Neighborhood Commercial District	"C1" District
"C2" General Commercial District	"C2" District
"HS" Highway Service District	"HS" District
"TC" Town Center District	"TC" District
"MXD" Mixed Use District	"MXD" District
"MXD2" High Density Mixed Use District	"MXD2" District
"MXD3" Very High Density Mixed Use District	"MXD3" District
"M1" Light Industrial District	"M1" District
"M2" Heavy Industrial District	"M2" District
"MP" Industrial Park District	"MP" District
"A" Agricultural District	"A" District
"POS" Park and Open Space District	"POS" District
"PD" Planned Development District	"PD" District

Chapter 10 of Title XI of the Milpitas Municipal Code is hereby amended to add a Section 8 entitled “Planned Development Zones and Standards” to read as follows:

Section 8 – Planned Development Zones and Standards

- XI-10-8.01 – Purpose and Intent
- XI-10-8.02 – Planned Development Requirements
- XI-10-8.03 – Preliminary Application
- XI-10-8.04 – Planned Development Zoning District Effectuated

XI-10-8.01 Purpose and Intent

The purpose of the Planned Development Zoning District is to allow diversification and flexibility in the relationships of various buildings, structures, land uses, open spaces and other features associated with large mixed-use development and to encourage flexibility of site planning and land use to create desirable environments that otherwise may not be achieved under conventional zoning requirements for large developments. The standards related to the public health, safety and general welfare shall be observed without unduly inhibiting the advantages of modern site planning for mixed residential, commercial, or industrial purposes.

XI-10-8.02 Planned Development Requirements

A. Minimum Standards and Requirements

1. Planned Development Zoning Districts may only be established on mixed-use, commercial or industrial designated parcels on the Milpitas General Plan and Zoning Maps with a minimum size of twenty (20) acres in strict conformance with the requirements of this Section. In order to meet the minimum size of twenty (20) acres, all parcels in the proposed district shall be adjacent, contiguous, or within eight hundred (800) feet from each other.
2. Application for a Planned Development Zoning District shall only be considered by the Planning Commission or City Council if the City receives written consent, acceptable to City, from each property owner or others, as applicable, controlling the use of all property within such proposed district.
3. Planned Development Zoning District shall not be permitted within the Midtown or Transit Area Specific Plan areas.
4. Application for a Planned Development Zoning District shall be processed as General Plan and Zoning amendments in accordance with this Section and Section XI-10-57.02 of this Chapter.
5. Application for a Planned Development Zoning District shall be on an application form prescribed by the Planning Division and include each of the following:
 - i. A specific development plan showing the proposed use or uses, locations of all proposed structures, vehicular and pedestrian circulation, parking, public facilities, utilities, landscaping, stormwater treatment, waste collection, open spaces, and any additional information required by the Planning Division; and
 - ii. Architectural drawings, plans and renderings demonstrating the design, elevation, and character of the proposed uses and structures, and the physical relationship of the uses and structures; and
 - iii. General plan and zoning consistency analysis, significant public benefit proposal, phasing proposal for development, if any, and required information and documents for environmental review; and
 - iv. Current title report demonstrating current ownership interests in all of the property located in the proposed district; and
 - v. Other data, information or document as required by the Planning Division to more fully understand the proposed development and its potential impact to the community.

6. Development standards for lot coverage, floor area ratio, density, building setback, height, parking, and other requirements shall be governed by the standards of the commercial, industrial or mixed-use zoning district(s) or use most similar in nature and function to the proposed Planned Development Zoning District. Any deviation to these standards may be reviewed by the Planning Commission and approved by the City Council if these bodies find that such exception encourages a desirable environment, the proposed development will provide a significant public benefit to the community, and the deviations will not impact public health, safety and welfare.

XI-10-8.03 Preliminary Application

- A. The Planning Director, in her/his discretion, may require an applicant to submit a preliminary application with a preliminary development plan and letter of intent for review by the Planning Commission and City Council prior to submitting an application for General Plan and Zoning amendments for a Planned Development Zoning District. The preliminary application provides an opportunity for the Planning Commission and City Council to review the conceptual development proposal and provide feedback prior to the applicant and Planning Division incurring significant time and cost. The preliminary development plan and letter of intent as part of the preliminary application shall include each of the following:
 1. Proposed land uses, building locations and square footage, density, and floor area ratio; and
 2. Proposed parks, open spaces, landscape areas, public art, and significant public benefits; and
 3. Proposed pedestrian and vehicular circulation pattern; and
 4. General project description and summary; and
 5. General Plan and zoning consistency analysis; and
 6. Any additional data, information, or document as determined by the Planning Director to be helpful for the Planning Commission and City Council to more fully understand the conceptual development proposal.

XI-10-8.04 Planned Development Zoning District Effectuated

- A. After a Planned Development Zoning District has been approved by the City Council, the base zoning district in effect as of the date of the application submitted to the City for a Planned Development Zoning District shall continue to apply until the Planned Development Zoning District has been effectuated by any of the following:
 1. Approval of a final map in full compliance with the Planned Development Zoning District; or
 2. Approval of a building permit in full compliance with a duly issued Site Development Permit for the Planned Development Zoning District; or
 3. Commencement of a use consistent with the Planned Development Zoning District.
- B. Except where a Planned Development Zoning District has been effectuated, the regulations for uses, lot coverage, floor area ratio, density, building setback, height, parking, and other requirements applicable to its base zoning district shall continue to apply to all property located in Planned Development Zoning District.
- C. When a Planned Development Zoning District has been effectuated, the provisions of such Planned Development Zoning District approved by the City Council shall prevail over the regulations applicable to the base zoning district.

Subsection G of Section XI-10-57.02 of Chapter 10, Title XI of the Milpitas Municipal Code is hereby amended to read as follows:

G. Required Findings.

1. Prior to the approval of a General Plan amendment, all of the following findings shall be made:
 - a. The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.
 - b. The proposed amendment will not adversely affect the public health, safety, and welfare.
2. Prior to the approval of a new specific plan or a specific plan amendment, the following findings shall be made:
 - a. The proposed specific plan or specific plan amendment is consistent with the goals, objectives, policies, and programs of the General Plan, and is necessary and desirable to implement the provisions of the General Plan.
 - b. The uses proposed in the specific plan or specific plan amendment are compatible with adjacent uses and properties.
 - c. The proposed specific plan or specific plan amendment will not adversely affect the public health, safety and welfare.

In the case of a specific plan amendment, the following additional finding shall be made prior to its adoption:

- d. The proposed specific plan amendment will not create internal inconsistencies within the specific plan.
3. Prior to approval of a zoning amendment or amendment to the zoning maps, the following findings shall be made:
 - a. The proposed amendment is consistent with the General Plan.
 - b. The proposed amendment will not adversely affect the public health, safety and welfare.

In the case of a zoning amendment or amendment to the zoning maps for a Planned Development Zoning District, the following additional findings shall be made prior to its adoption:

- c. The proposed zoning amendment will provide a significant public benefit to the community.
 - d. Existing and proposed utility services are adequate to serve the proposed Planned Development Zoning District.
 - e. The proposed development will be in character to the surrounding neighborhood and/or adjacent lands and will have no adverse effects upon the adjacent or surrounding properties, such as shadows, view obstruction, or loss of privacy that cannot be mitigated to acceptable levels.

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.