REGULAR

NUMBER: 38.829

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING TITLE XI, CHAPTER 10, SECTION 6.02, SUBSECTION 6.02-2OF THE MILPITAS ZONING CODE TO REMOVE “CHURCHES AND OTHER RELIGIOUS INSTITUTIONS” FROM THE SPATIAL REQUIREMENT THAT REQUIRES SUCH USES BE MORE THAN ONE THOUSAND (1,000) FEET FROM ONE ANOTHER FOR LOTS LOCATED IN AN “MXD” ZONED DESIGNATION

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of May 16, 2017, upon motion by Councilmember Nuñez 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 Rich Tran, Mayor

APPROVED AS TO FORM:

______________________________
Christopher J. Diaz, City Attorney
RECITALS AND FINDINGS:

WHEREAS, the Milpitas Midtown Specific Plan previously provided that “the following quasi-public uses may be permitted within the MXD zones provided their location is first approved by the Planning Commission, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter and they are not located within one thousand (1,000) feet of the parcel boundary of another quasi-public use,” including, but not limited to “places of meeting or assembly, such as auditoriums, banquet halls, fraternal or union hall, churches and other religious institutions.” (Midtown Specific Plan, page 8-13); and

WHEREAS, on May 16, 2017, by passage of Resolution No. 8660, the City Council has amended the language cited above to exclude churches and other religious land uses from this 1,000 distance requirement; and

WHEREAS, in order to bring the Milpitas Municipal Code into conformance with the Midtown Specific Plan, as revised, staff has prepared a Zoning Code Amendment to allow “Churches and religious institutions” to be located less than one thousand (1,000) feet from the parcel boundary of another quasi-public use, within the Mixed Use Zone District (“MXD”) designated properties (the “Project”); and

WHEREAS, the Planning Division completed an environmental assessment for the proposed Project in accordance with the California Environmental Quality Act (“CEQA”), which assessment determined that the proposed Project is exempt from CEQA review pursuant to Section 15061(b)(3) “General Rule Exemption” of the CEQA Guidelines; and

WHEREAS, on March 22, 2017, the Planning Commission held a duly-noticed public hearing to consider Specific Plan Amendment No. ST17-0001, Zoning Code Amendment No. ZA17-0001, and Conditional Use Permit UP16-0007. At the conclusion of the public hearing, the Planning Commission adopted a resolution recommending that the City Council approve Specific Plan Amendment No. ST17-0001 and Conditional Use Permit UP16-0007 and adopt an ordinance for a Zoning Code Amendment No. ZA17-0001; and

WHEREAS, on May 16, 2017, the City Council held a duly-noticed public hearing on the proposed action, and considered evidence presented by City staff and other interested parties; and

WHEREAS, at its May 16, 2017, meeting, the Milpitas City Council approved Resolution No. 8660, thereby approving Specific Plan Amendment No. ST17-0001; and

WHEREAS, Zoning Code Amendment No. ZA17-0001 proposes text changes within Title XI, Chapter 10, Section 6 (Mixed-Use Zones and Standards) of the City of Milpitas Municipal Code to bring said text into conformance with the Specific Plan Amendment addressed above; and

WHEREAS, pursuant to Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council finds the Zoning Code text amendment set forth herein to be consistent with the General Plan, and specifically with guiding principles and policies such as 2.a-G-1 (maintain 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) in that it furthers a land use program that provides a community environment amenable to a multitude of uses, including churches and religious uses, and 2.a-G-6 (implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high-density, transit-oriented housing and a central community ‘gathering place’ while maintaining needed industrial, service and commercial uses) in that the amendment will allow a greater mixture of uses within the core of the Midtown area; and
WHEREAS, pursuant to Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council also finds that the Zoning Code text amendment set forth herein will not adversely affect the public health, safety and welfare, in that the MXD Zone already allows churches and other religious uses, and any churches or religious institutions approved hereafter will continue to be required to be and, if necessary, may be conditioned to be, in character with the surrounding neighborhood and/or adjacent lands and will have no adverse effects upon the adjacent or surrounding properties; and

WHEREAS, the City Council finds that the adoption of Zoning Code Amendment No. ZA17-0001 will render the Municipal Code and the Milpitas Midtown Specific Plan internally consistent.

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. ZONING CODE TEXT AMENDMENT FINDINGS (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 No. ZA17-0001:

a. The proposed amendment is consistent with the General Plan.

This finding can be met in that the intent of the “Mixed-Use” General Plan (GP) Designation was to create a “designation which allows for commercial offices, retail and services, high density residential and public and quasi-public uses.” As amended, it would remove a spatial requirement that had formerly applied to churches and religious institutions, thus allowing the potential for a distribution of such uses with commercial offices, retail and service uses, and high-density housing. Furthermore, removing a spatial requirement between “churches and other religious institutions” will allow such uses to occupy currently vacant buildings within the City boundaries, and encourages the policy of GP2.a I-2 which states “promote development within the incorporated limits which acts to fill-in urban fabric rather than providing costly expansion of urban services into outlying areas”.

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

Churches and religious institutions are already allowed in the Midtown Specific Plan area, but are currently subject to spatial requirements. The proposed amendment will simply remove the spatial requirements and thus will not adversely affect the public health, safety and welfare. On the contrary, it will clarify the ability of certain quasi-public uses to locate within an urbanized area within the City of Milpitas.

SECTION 3. AMENDMENT OF MILFITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 6.02, SUBSECTION 6.02-2

Title XI, Chapter 10, Section 6.02 (“Mixed Use Regulations”), Subsection 6.02-2 (“Quasi-Public Uses within the MXD Zone”) of the Milpitas Municipal Code is hereby amended to read as follows:

6.02-2 Quasi-Public Uses within MXD Zone
A. The following quasi-public uses may be permitted within the MXD zones provided their location is first approved by the Planning Commission, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, and they are not located within one thousand (1,000) feet of the parcel boundary of another quasi-public use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Places of meeting or assembly, such as auditoriums, banquet halls, and fraternal or union halls. Churches and religious institutions are exempt from this spatial requirement.
2. Hospitals or sanitariums.
3. Private elementary, middle or high school.
4. Vocational schools, if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The adoption of this Ordinance is exempt from CEQA (Public Resources Code § 21000, et seq., as further governed by the CEQA Guidelines, 14 CCR 15000, et seq.), pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment. Churches and religious institutions are currently permitted in the Midtown Specific Plan area, but are now subject to a spatial requirement. As proposed, the ordinance will remove the 1,000 foot spatial requirement between churches and religious institutions within a Mixed-Use zoning district. This action will not have a significant effect on the environment.

SECTION 5. SEVERABILITY

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

SECTION 6. 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.