

## **RESOLUTION NO. 25-004**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THAT THE CITY COUNCIL: 1) APPROVE GENERAL PLAN MAP AND TEXT AMENDMENT NO. GP24-0001 TO CHANGE THE DESCRIPTION OF THE TOWN CENTER (TWC) AND NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU) DESCRIPTIONS AND CHANGE THE LAND USE DESIGNATION OF CERTAIN PARCELS; 2) APPROVE A ZONING MAP AND TEXT AMENDMENT (ZA24-0001) TO ESTABLISH THE NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU-1,2,3) DISTRICTS AND SUBDISTRICTS, AND UPDATE THE EXISTING TOWN CENTER (TC) DISTRICTS TO ESTABLISH THE SUBDISTRICTS (TC-1,2,3); AND 3) ADOPT THE HOUSING OPPORTUNITY DISTRICT ADDENDUM TO THE MILPITAS GENERAL PLAN 2040 FEIR (SCH #2020070348) AND THE SUPPLEMENTAL LETTER TO THE ADDENDUM.**

**WHEREAS**, in response to California's pressing affordable housing shortage and homelessness crisis, Governor Newsom's 2019-20 Budget Act earmarked \$250 million for initiatives addressing these challenges. Notably, \$119 million was allocated to the Local Early Action Planning Grant (LEAP), an essential non-competitive program empowering cities and counties to update planning documents and expedite housing production; and

**WHEREAS**, in September 2020, the City of Milpitas applied for LEAP funding to establish Housing Opportunity Districts (HOD) in priority areas outlined in its General Plan. HODs are designed to incentivize housing by allowing increased density, relaxed standards, streamlined permitting processes, and financial support for affordable housing; and

**WHEREAS**, the City was awarded a \$300,000 LEAP grant; the City subsequently engaged Raimi and Associates through a professional services agreement to draft the HODs by June 2024, in tandem with other ongoing planning initiatives; and

**WHEREAS**, the California Department of Housing and Community Development (HCD) granted the City an extension to complete the project; and

**WHEREAS**, the "Planning Area" for the Housing Opportunity Districts (HOD) is defined as the area within the defined boundaries, including the NCMU, which covers approximately 140 acres, and the TWC, which covers approximately 133 acres, within the City of Milpitas General Plan Planning Area; and

**WHEREAS**, the City's consultants and staff held public workshops to identify key issues and challenges that Milpitas may face in the Planning Area and the City generally over the next 20 years; and

**WHEREAS**, the City Council and Planning Commission received periodic briefings from city staff and the consultant team to review input and receive information relevant to the specific topics addressed in the Planning Area update work, and to provide direction and

guidance to staff and the consultant team regarding land use opportunity areas and development of the preferred land use map; and

**WHEREAS**, the Housing Opportunity Districts (HOD) project plays a critical role in implementing both the whole 2040 General Plan and the 2023-2031 Housing Element and the efforts therein to increase housing in the city while creating vibrant mixed-use neighborhoods that foster redevelopment and economic opportunity to support commercial activity; and

**WHEREAS**, the City made available the draft Housing Opportunity Districts (HODs) memorandum to the public, affected public entities and agencies in compliance with state law (Government Code Sections 65450 – 65457), and in accordance with Government Code Sections 65352.3, contacted California Native American tribes that are on the contact list maintained by the Native American Heritage Commission to invite those tribes to consult on the proposed Housing Opportunity Districts; and

**WHEREAS**, the City released the Public Review Draft Housing Opportunity Districts (HODs) memorandum in March 2024 and invited comments by the public from March 22, 2024, and up to the adoption of the Plan and has updated the draft Housing Opportunity Districts (HODs) memorandum and made the final version available on the Project website (<https://www.milpitas.gov/1119/Housing-Opportunity-Districts-HOD>); and

**WHEREAS**, on April 24, 2024, the City of Milpitas Planning Commission held a duly noticed public hearing on the General Plan Text Amendment, Zoning Map and Text Amendments, and Addendum to Milpitas General Plan 2040, related to the Housing Opportunity Districts (HODs), considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

**WHEREAS**, the Planning Commission recommended (5-0) that the City Council approve the Project; and

**WHEREAS**, due to community concerns, the City held additional community meetings on May 30, 2024, August 26, 2024, and December 9, 2024; and

**WHEREAS**, the City further revised the Housing Opportunity Districts (HODs) development standards and project boundary and presented the revisions at a community meeting on December 9, 2024; and

**WHEREAS**, the City prepared an Addendum pursuant to CEQA Guidelines Sections 15162 and 15164, to evaluate whether the Project's environmental impacts are covered by and within the scope of the Milpitas General Plan Update Final EIR (March 2021, State Clearinghouse Number 2020070348); and

**WHEREAS**, the Addendum substantiates and supports the City's determination that the HOD changes are within the scope of the General Plan EIR, do not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the EIR; and

**WHEREAS**, a Supplemental Letter to the Addendum was prepared in response to the Project revisions and found that the proposed changes are consistent with the overall land use and growth projections assumed within the General Plan EIR, which already accounted for and mitigated potential environmental impacts; and

**WHEREAS**, since the environmental conditions have not changed since the April 2024 Addendum, the baseline conditions for analyzing impacts remain the same. Consequently, the reduced buildout further supports the conclusion that the impacts would be less significant, and the conclusions of the Addendum remain valid; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

**WHEREAS**, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, California Government Code Section 65300 et seq. requires each city to prepare and adopt a comprehensive, long-term general plan for the physical development of the county or city; and

**WHEREAS**, Section 3.03 of Chapter 10 Zoning of Title XI of the Milpitas Municipal Code, divides the City into zoning districts; and

**WHEREAS**, the Planning Commission is an advisory body to the City Council; and

**WHEREAS**, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Zoning Map; and

**WHEREAS**, the City has prepared a General Plan Map and Text Amendment (“Amendment”) to the City’s General Plan implementing the HODs (General Plan Land Use Map and Text Amendment No. GP24-0001) with a proposed effectuating Resolution for adoption by the City Council, which is attached and incorporated herein by reference as Exhibit “A”; and

**WHEREAS**, the City has prepared a Zoning Map and Text Amendment (“Amendment”) to the City’s Zoning Map and Zoning Ordinance Text implementing the HODs (Zoning Map and Text Amendment No. ZA24-0001) with a proposed effecting Ordinance for adoption by the City Council, which is attached and incorporated herein by reference as Exhibit “B”; and

**WHEREAS**, the Planning Commission makes and accepts as its own the findings set forth in this resolution; and

**WHEREAS**, on February 26, 2025, the City of Milpitas Planning Commission held a duly noticed public hearing on the General Plan Land Use Map and Text Amendment, Zoning Map and Text Amendments, and Addendum to Milpitas General Plan 2040 and Supplemental Letter to the Addendum, related to the Housing Opportunity Districts (HODs), considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

### **SECTION 1. Recitals**

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

### **SECTION 2. California Environmental Quality Act**

The City prepared an Addendum to the Milpitas General Plan 2040 EIR (SCH#: 2020070348) (memorialized as an attachment to the Staff report, dated April 24, 2024) for the proposed Project in accordance with the California Environmental Quality Act (CEQA).

The Addendum Evaluation details any changes in the project, changes in circumstances under which the project is undertaken, and/or "new information of substantial importance" that may cause one or more effects to environmental resources.

The Addendum substantiates and supports the City's determination that the HOD changes are within the scope of the General Plan EIR, does not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the EIR.

Further, although the Project has been revised from the initial Addendum, dated April 2024, Rincon Consultants, Inc., on behalf of the City, prepared a Supplemental Letter (memorialized as an attachment to the staff report, dated January 28, 2025) and found that the proposed zoning changes and the latest revisions would result in a reduced buildout compared to the Addendum analysis. This reduction in residential units and the consistency in non-residential space reduction, specifically commercial FAR minimums and maximums, ensure that the impacts would be less significant, as previously analyzed, and similar to or reduced compared to the Addendum conclusions. Additionally, the proposed changes are consistent with the overall land use and growth projections assumed within the General Plan EIR, which has already accounted for and mitigated potential environmental impacts. Since the environmental conditions have not changed since the April 2024 Addendum, the baseline conditions for analyzing impacts remain the same. Consequently, the reduced buildout further supports the conclusion that the impacts would be less significant, and the conclusions of the Addendum remain valid.

The Planning Commission has been provided the Addendum to the Milpitas General Plan 2040 EIR (SCH#: 2020070348) and the Supplemental Letter to the Addendum and findings to review and consider in making a recommendation to the City Council to adopt the Housing Opportunity Districts (HODs).

Subject to the City Council's ultimate adoption and approvals, the Planning Commission approves, recommends the City Council approve, and adopts this Addendum and the Supplemental Letter as if fully set forth herein and finds in light of the full record before it, including the Addendum and the Supplemental Letter, that its actions are consistent with CEQA and State CEQA guidelines.

**SECTION 3. General Plan Map and Text Amendments (Milpitas Municipal Code Section XI-10-57.02(G) (1) (a), (b))**

The Planning Commission approves and adopts the analysis, recommendations, and findings set forth in the final Housing Opportunity Districts (HODs) memorandum, as if fully set forth herein. The Planning Commission further and specifically makes the following findings based on the evidence in the public record in support of General Plan Amendment Permit No. GP24-0001:

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

The proposed General Plan Map and Text Amendments are found to be internally consistent with those portions of the General Plan which are not being amended. The amendments do not introduce any conflicts or inconsistencies with the existing goals, policies, or programs of the General Plan. Instead, they build upon the existing framework of the General Plan, enhancing its effectiveness and relevance to current and future planning efforts. The General Plan envisioned opportunities in the NCMU for redevelopment of aging commercial centers by allowing multifamily dwelling units. The proposed changes facilitate this overall objective for the Project area consistent with planning objectives throughout the City and in a manner that is consistent and flexible with redevelopment needs. The General Plan similarly envisioned opportunities in the TWC for mixed-use and residential only projects that increase economic support for the commercial uses. These changes further the redevelopment of major shopping centers in these areas in a manner that supports economic growth. These changes also further the larger objectives of the General Plan for supporting the community's housing needs and guiding that development towards areas that can support this growth. The proposed changes are carefully integrated into the existing General Plan, ensuring that they align with its overall vision and objectives.

Pursuant to California Government Code Section 65863, the Planning Commission also finds the following:

The Project scope includes a General Plan Map Amendment to remove the NCMU land use designation and to revert the land use designation back to General Commercial (GNC) on certain parcels. Although this would remove the allowance of housing on certain parcels, the proposed overall density in both TWC and NCMU General Plan land use designations have been greatly increased. Further, the Project site or a portion thereof was not identified in the Housing Element to accommodate a portion of the regional housing need. The 2021 General Plan update established the new NCMU land use designation, but the Zoning Ordinance had not yet been updated to reflect this change. For the Housing Element Sites Inventory, only vacant parcels or parcels with developer interest with the NCMU land use designation were considered with an assumed maximum density of 30 dwelling units per acre. Additionally, Program 15 of the Housing Element sets a goal to foster the development of at least 200 affordable housing units in the housing opportunity zones (districts) (TC and NCMU). Based on the City's Affordable Housing Ordinance (AHO), which requires 15 percent of total units to be affordable within a new development project, the Program 15's goal of 200 affordable units, and HCD's requirement to plan for at least a 30 percent buffer in planning for residential units, the minimum number of residential units needed to comply with the Housing Element is 1,733 units. Moreover, the Project would result in approximately 2,156 new residential housing units compared to existing conditions across both districts, which greatly exceeds the minimum number required for Housing Element compliance. Any reduction in residential density, as defined in Government Code Section 65863(g), is consistent with the General Plan, together with the Housing Element, because the Project continues to remove potential barriers to redevelopment of housing projects while preserving necessary commercial opportunities that will support that development and fulfill the planned vision of these zones. The Project's residential density is consistent with the Housing Element, and the remaining sites identified in the Housing Element remain unchanged and are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's share of the regional housing need pursuant to Section 65584. This finding demonstrates that the Project is not subject to Government Code Section 65583.2 and will still ensure that the City can accommodate the remaining share of the regional housing need pursuant to Section 65584.

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

The proposed General Plan Map and Text Amendment are found to be consistent with the overall planning objectives and goals of the City of Milpitas. The map amendments affect a small number of parcels. The amendment is necessary to accommodate changing community needs and to promote sustainable growth within the city. The amendment aligns with the City's vision for responsible land use planning, economic development, and environmental stewardship. Additionally, the amendment is in compliance with applicable state and local laws, including the California Environmental Quality Act (CEQA). The proposed changes are supported by relevant data and analysis, demonstrating that they will not result in adverse

impacts on the environment or public health, safety, or welfare. These changes increase housing and affordable housing stock to meet growing regional needs and expand the opportunity and flexibility of mixed-use development in areas identified by the City of being capable of sustaining additional and denser residential development. Also, the City retains authority through discretionary approvals to address project-specific health, safety, and welfare concerns. This amendment enables the City to modify its current Mixed Use Designations to prioritize the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalize some of the older neighborhood-serving commercial land uses that support citywide community goals outlined in the Milpitas 2040 General Plan, specifically Goal LU-1: Accommodate a well-balanced mix of land uses that meet the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched, and Goal LU-6: Support commercial centers that serve residential neighborhoods and provide for a variety of convenient, successful and attractive commercial uses throughout the city.

#### **SECTION 4. Zoning Map and Text Amendments (Milpitas Municipal Code Section XI-10-57.02(G) (3) (a), (b))**

The Planning Commission approves and adopts the analysis, recommendations, and findings set forth in the final Housing Opportunity Districts (HODs) memorandum, as if fully set forth herein. The Planning Commission further and specifically makes the following findings based on the evidence in the public record in support of Zoning Text amendment Permit No. ZA24-0001:

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

The proposed text amendments are consistent with General Plan Policy LU 6-6, which states to encourage redevelopment and intensification of mixed-use areas by allowing standalone vertical mixed-use, or integrated horizontal mixed-use projects in mixed use areas, consistent with the Land Use Map and policies and actions included in this element. The proposed zoning adopts a place-based and flexible approach by establishing three distinct NCMU zones (NCMU1, NCMU2, and NCMU3) and three TC zones (TC1, TC2, and TC3). These zones consider factors such as parcel size, location, current use, and future potential. Each zone permits increased residential density and a reduced minimum non-residential FAR, promoting versatility in development. The Housing Element supports this change with Policy HE 3.7: support the adaptive reuse, renovation, conversion, or redevelopment of economically underutilized properties or buildings for residential or mixed-use development. This is further supported by the General Plan's proposed text updates associated with this Project to ensure consistency between the Zoning Text and the General Plan. The Project is specifically consistent with General Plan Policy LU 6-5, which states to promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers. The proposed map amendments are consistent with the text amendments and the General Plan because the proposed map changes to the identified parcels, zoned Town Center (TC) and Neighborhood

Commercial Mixed Use (NCMU), are also implementing the existing General Plan land use designations. Furthermore, the proposed amendments introduce specific development standards related to permitted uses, parking, and open space, which are intended to implement the General Plan vision for the NCMU and TWC designations.

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

The proposed text and map amendment are found to have no adverse effects on the public health, safety, and welfare. The amendments are designed to enhance the efficiency and effectiveness of the City's zoning regulations, ensuring that they remain current and responsive to changing community needs. The amendments have been carefully reviewed and analyzed to assess their potential impacts on public health, safety, and welfare. This analysis has been done through a place-based approach sensitive to the needs and circumstances of the areas that will be rezoned. These areas have been selected as being capable of supporting this development, and development standards have been selected that are specific to this area and its circumstances. As confirmed by the Addendum to the Milpitas General Plan Update Final EIR and the Supplemental Letter to the Addendum, traffic, environmental impacts, access to essential services, and community well-being will not be impacted in a manner that would significantly affect public health, safety, and welfare. Also, the City retains authority through discretionary approvals to address project-specific health, safety, and welfare concerns.

#### **SECTION 4. Planning Commission Action**

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 25-004 recommending that the City Council: 1) approve General Plan Map and Text Amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions, change the land use designation of certain parcels, and adopt the implementing proposed resolution in Exhibit "A"; 2) approve a Zoning Map and Text Amendment (ZA24-0001) to establish the Neighborhood Commercial Mixed-Use (NCMU-1,2,3) districts and subdistricts, and update the existing Town Center (TC) districts to establish the subdistricts (TC-1,2,3) and adopt the implementing proposed ordinance in Exhibit "B"; and 3) adopt the Housing Opportunity District Addendum to the Milpitas General Plan 2040 FEIR (SCH #2020070348) and the Supplemental Letter to the Addendum.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on February 26, 2025.

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Parveen Gupta, Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February 26, 2025, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Alexander Galang				
Chia Ling Kong				
Dipak Awasthi				
Mercedes Albana				
Michael Caulkins				
Parveen Gupta				
Sonia Medina-Ashby				

**Exhibit “1” General Plan Amendment City Council Resolution No. XX-XXX**

**Exhibit "A" General Plan Amendment**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING  
GENERAL PLAN MAP AND TEXT AMENDMENT NO. GP24-0001 TO CHANGE THE  
DESCRIPTION OF THE TOWN CENTER (TWC) AND NEIGHBORHOOD COMMERCIAL  
MIXED-USE (NCMU) DESCRIPTIONS AND LAND USE POLICY (LU 6-1) AND AMEND THE  
LAND USE DESIGNATIONS OF CERTAIN PARCELS IN THE MILPITAS GENERAL PLAN  
2040**

**WHEREAS**, the City of Milpitas, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

**WHEREAS**, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Zoning Map; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, "CEQA"), the City of Milpitas is the lead agency for the proposed project described below; and

**WHEREAS**, on February 26, 2025, the Planning Commission held a duly noticed public hearing, during which meeting the Planning Commission by adoption of Resolution No. 25-004, recommended that the City Council: 1) approve General Plan Map and Text Amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions and change the land use designation of certain parcels; 2) approve a Zoning Map and Text Amendment No. ZA24-0001 to establish the Neighborhood Commercial Mixed-Use (NCMU-1,2,3) districts and subdistricts, and update the existing Town Center (TC) districts to establish the subdistricts (TC-1,2,3); and 3) adopt the Housing Opportunity District Addendum to the Milpitas General Plan 2040 FEIR (SCH #2020070348) and Supplemental Letter to the Addendum; and

**WHEREAS**, the documents and other materials which constitute the record of proceedings upon which the City Council bases the recommendation and the findings contained within this Resolution are available and may be reviewed at Milpitas City Hall, located at 455 E. Calaveras Boulevard, Milpitas, California 95035; and

**WHEREAS**, on \_\_\_\_\_ the City Council held a duly-noticed public hearing on the General Plan Land Use Map and Text Amendments, Zoning Map and Text Amendments, and Addendum to Milpitas General Plan 2040, related to the Housing Opportunity Districts (HODs), considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter; and

**WHEREAS**, these amendments represents a comprehensive approach to addressing housing challenges while promoting sustainable and vibrant mixed-use neighborhoods in Milpitas. The Project is a pivotal strategy in addressing Milpitas' housing needs while revitalizing our commercial centers. The Project aligns with the City's General Plan and Housing Element, emphasizing the importance of balanced land uses that meet the needs of our residents and businesses; and

**WHEREAS**, the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence before it as a whole; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

## **SECTION 1. RECITALS**

The City Council has considered the full record before it, which includes, but is not limited to, such things as all published staff reports, oral and written testimony by staff, the Planning Commission, City Council and the public, and all other relevant materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and incorporated herein by reference.

## **SECTION 2. GENERAL PLAN LAND USE MAP AND TEXT AMENDMENT FINDINGS (SECTION XI-10-57.02)**

The City Council approves and adopts the analysis, recommendations, and findings set forth in the final Housing Opportunity Districts (HODs) memorandum, as if fully set forth herein. The City Council makes the following further findings based on the evidence in the administrative record in support of General Plan Text Amendment No. GP24-0001:

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

The proposed General Plan Map and Text Amendments are found to be internally consistent with those portions of the General Plan which are not being amended. The amendments do not introduce any conflicts or inconsistencies with the existing goals, policies, or programs of the General Plan. Instead, they build upon the existing framework of the General Plan, enhancing its effectiveness and relevance to current and future planning efforts. The General Plan envisioned opportunities in the NCMU for redevelopment of aging commercial centers by allowing multifamily dwelling units. The proposed changes facilitate this overall objective for the Project area consistent with planning objectives throughout the City and in a manner that is consistent and flexible with redevelopment needs. The General Plan similarly envisioned opportunities in the TWC for mixed-use and residential only projects that increase economic support for the commercial uses. These changes further the redevelopment of major shopping centers in these areas in a manner that supports economic growth. These changes also further the larger objectives of the General Plan for supporting the community's housing needs and guiding that development towards areas that can support this growth. The proposed changes are carefully integrated into the existing General Plan, ensuring that they align with its overall vision and objectives.

Pursuant to California Government Code Section 65863, the Planning Commission also finds the following:

The Project scope includes a General Plan Map Amendment to remove the NCMU land use designation and to revert the land use designation back to General Commercial (GNC) on certain parcels. Although this would remove the allowance of housing on certain parcels, the proposed overall density in both TWC and NCMU General Plan land use designations have

been greatly increased. Further, the Project site or a portion thereof was not identified in the Housing Element to accommodate a portion of the regional housing need. The 2021 General Plan update established the new NCMU land use designation, but the Zoning Ordinance had not yet been updated to reflect this change. For the Housing Element Sites Inventory, only vacant parcels or parcels with developer interest with the NCMU land use designation were considered with an assumed maximum density of 30 dwelling units per acre. Additionally, Program 15 of the Housing Element sets a goal to foster the development of at least 200 affordable housing units in the housing opportunity zones (districts) (TC and NCMU). Based on the City's Affordable Housing Ordinance (AHO), which requires 15 percent of total units to be affordable within a new development project, the Program 15's goal of 200 affordable units, and HCD's requirement to plan for at least a 30 percent buffer in planning for residential units, the minimum number of residential units needed to comply with the Housing Element is 1,733 units. Moreover, the Project would result in approximately 2,156 new residential housing units compared to existing conditions across both districts, which greatly exceeds the minimum number required for Housing Element compliance. Any reduction in residential density, as defined in Government Code Section 65863(g), is consistent with the General Plan, together with the Housing Element, because the Project continues to remove potential barriers to redevelopment of housing projects while preserving necessary commercial opportunities that will support that development and fulfill the planned vision of these zones. The Project's residential density is consistent with the Housing Element, and the remaining sites identified in the Housing Element remain unchanged and are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's share of the regional housing need pursuant to Section 65584. This finding demonstrates that the Project is not subject to Government Code Section 65583.2 and will still ensure that the City can accommodate the remaining share of the regional housing need pursuant to Section 65584.

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

The proposed General Plan Map and Text Amendment are found to be consistent with the overall planning objectives and goals of the City of Milpitas. The map amendments affect a small number of parcels. The amendment is necessary to accommodate changing community needs and to promote sustainable growth within the city. The amendment aligns with the City's vision for responsible land use planning, economic development, and environmental stewardship. Additionally, the amendment is in compliance with applicable state and local laws, including the California Environmental Quality Act (CEQA). The proposed changes are supported by relevant data and analysis, demonstrating that they will not result in adverse impacts on the environment or public health, safety, or welfare. These changes increase housing and affordable housing stock to meet growing regional needs and expand the opportunity and flexibility of mixed-use development in areas identified by the City of being capable of sustaining additional and denser residential development. Also, the City retains authority through discretionary approvals to address project-specific health, safety, and welfare concerns. This amendment enables the City to modify its current Mixed Use Designations to prioritize the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalize some of the older neighborhood-serving commercial land uses that support citywide community goals outlined in the Milpitas 2040 General Plan, specifically Goal LU-1: Accommodate a well-balanced mix of land uses that meet the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched, and Goal LU-6: Support commercial centers that serve residential neighborhoods and provide for a variety of convenient, successful and attractive commercial uses throughout the city.

### **SECTION 3. AMENDMENT OF MILPITAS GENERAL PLAN 2040 MIXED USE DESIGNATIONS TEXT**

The Description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) Descriptions on page LU-6 of the adopted Milpitas General Plan 2040 are hereby amended to read as follows:

#### **TOWN CENTER (TWC) (UP TO 65 UNITS PER ACRE AND FAR UP TO 0.85)**

The Town Center (TWC) designation provides for a variety of commercial, professional, civic, restaurants, hotels, residential, and entertainment uses. Projects may consist of a wholly non-residential development, or a mixed use residential project that integrates residential and nonresidential uses vertically or horizontal. Residential developments up to 65 units per acres are permitted within the Town Center to increase economic support to the commercial uses. To maintain the importance of the Town Center area as a center for commercial, professional and civic uses, a minimum of 0.35 FAR of non-residential uses is required for redevelopment of major shopping centers into mixed-use projects and a minimum of 0.10 FAR of non-residential ground floor uses is required along major streets. All non-residential development, except for hotel uses, must adhere to a FAR maximum of up to 0.85. Where permitted, residential only developments do not require any minimum non-residential FAR.

#### **NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU) (FAR UP TO 0.50, AND UP TO 60 UNITS PER ACRE FOR MIXED-USE AND RESIDENTIAL ONLY PROJECTS)**

The Neighborhood Commercial Mixed-Use (NCMU) designation is intended to accommodate a vertical and horizontal mix of commercial and residential uses with an emphasis on neighborhood commercial activity. Residential uses, hotel, and office development are allowed on upper floors. The NCMU designation encourages active neighborhood-serving uses at the ground level, including grocery stores, specialty retail, restaurants, plazas, or walk-in personal services such as banks and salons at FARs up to 0.50.

This designation provides opportunities for vertical and horizontal mixed-use residential development to provide for area vibrancy and to encourage the redevelopment of aging commercial centers by allowing residential developments up to 60 dwelling units per acre for mixed-use and residential only projects. Redevelopment of larger neighborhood commercial centers shall provide a minimum of 0.20 FAR of new or rehabilitated neighborhood-serving retail and commercial services. Parcels fronting major streets shall provide a minimum 0.10 FAR of neighborhood-serving retail and commercial services for the first 100 feet of parcel frontage depth. The residential only developments do not require any minimum non-residential FAR.

### **SECTION 4. AMENDMENT OF MILPITAS GENERAL PLAN 2040 MIXED USE DESIGNATIONS TEXT**

Policy LU 6-1 on page LU-26 of the Milpitas General Plan 2040 is hereby amended to read as follows:

LU 6-1 Ensure new development in Neighborhood Commercial Mixed Use (NCMU) areas includes adequate commercial components to retain commercial uses as the dominant ground floor use type, and that the redevelopment of aging centers results in maintaining viable commercial space to meet neighborhood's daily service needs.

### **SECTION 5. AMENDMENT OF MILPITAS GENERAL PLAN 2040 FIGURE LU-1: GENERAL PLAN LAND USE MAP**

The General Plan Land Use Map (Figure LU-1) at page LU-11 of the adopted Milpitas 2040 General Plan is hereby amended only as to parcels and changes as shown in Exhibit A.

## **SECTION 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City prepared an Addendum to the Milpitas General Plan 2040 EIR (SCH#: 2020070348) (memorialized as an attachment to the Staff report, dated April 24, 2024) for the proposed Project in accordance with the California Environmental Quality Act (CEQA).

The Addendum Evaluation details any changes in the project, changes in circumstances under which the project is undertaken, and/or "new information of substantial importance" that may cause one or more effects to environmental resources.

The Addendum substantiates and supports the City's determination that the HOD changes are within the scope of the General Plan EIR, does not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the EIR.

Further, although the Project has been revised from the initial Addendum, dated April 2024, Rincon Consultants, Inc., on behalf of the City, prepared a Supplemental Letter (memorialized as an attachment to the staff report, dated January 28, 2025) and found that the proposed zoning changes and the latest revisions would result in a reduced buildout compared to the Addendum analysis. This reduction in residential units and the consistency in non-residential space reduction, specifically commercial FAR minimums and maximums, ensure that the impacts would be less significant, as previously analyzed, and similar to or reduced compared to the Addendum conclusions. Additionally, the proposed changes are consistent with the overall land use and growth projections assumed within the General Plan EIR, which has already accounted for and mitigated potential environmental impacts. Since the environmental conditions have not changed since the April 2024 Addendum, the baseline conditions for analyzing impacts remain the same. Consequently, the reduced buildout further supports the conclusion that the impacts would be less significant, and the conclusions of the Addendum remain valid.

The City Council has been provided the Addendum to the Milpitas General Plan 2040 EIR (SCH#: 2020070348) and the Supplemental Letter to the Addendum and findings to review and consider in making a recommendation to the City Council to adopt the Housing Opportunity Districts (HODs).

The City Council adopts this Addendum as if fully set forth herein and finds in light of the full record before it, including the Addendum, that its actions are consistent with CEQA and State CEQA guidelines.

## **SECTION 7. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held incorrect, invalid, illegal, or unenforceable, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared incorrect, invalid, illegal, or unenforceable.

## **SECTION 6. CITY COUNCIL APPROVAL**

The City Council hereby approves General Plan Map and Text Amendment No. GP24-0001, based on the above findings.

PASSED AND ADOPTED this \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Suzanne Guzzetta, City Clerk

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Carmen Montano, Mayor

APPROVED AS TO FORM:

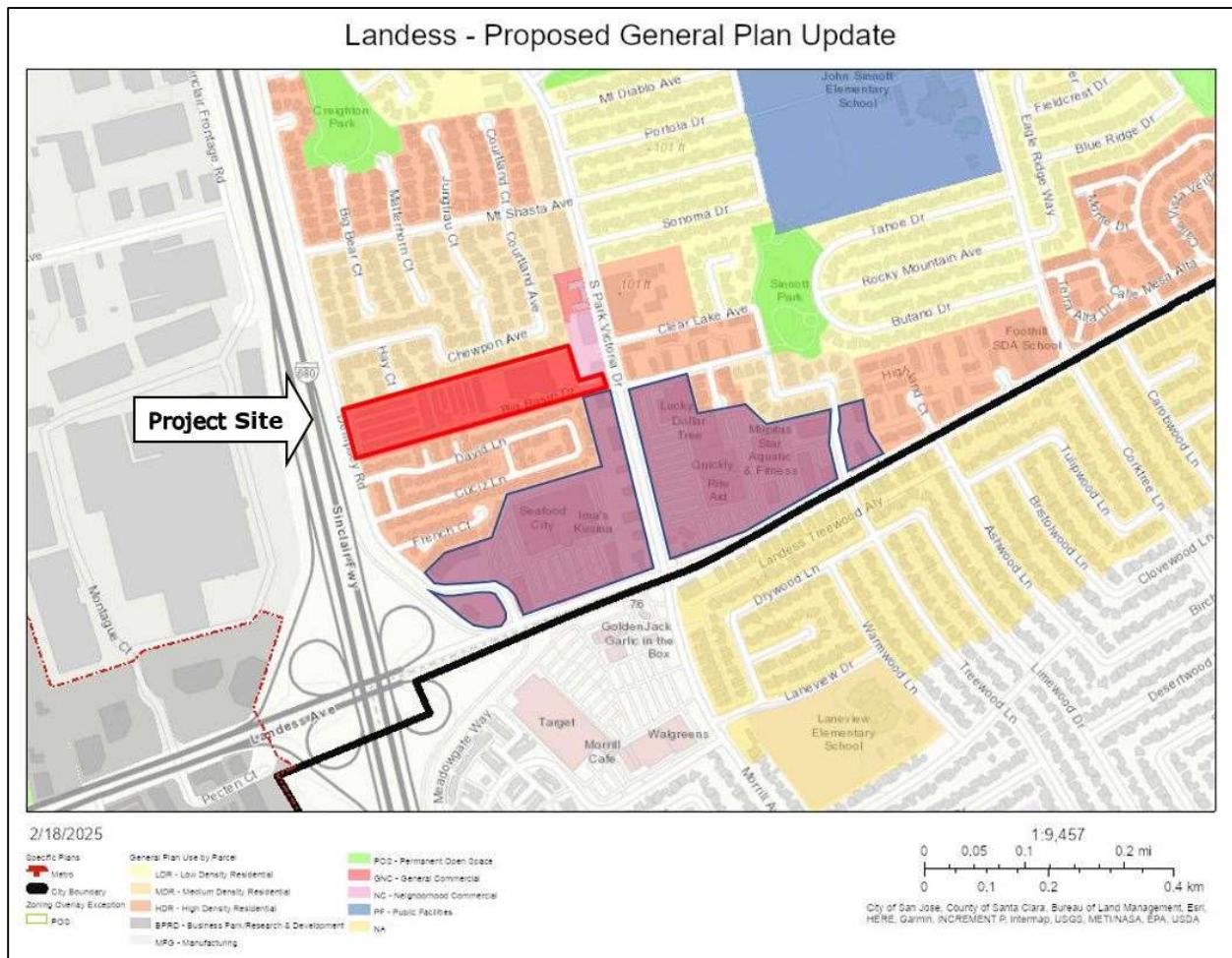
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Christopher Creech, Acting City Attorney

Attachments:

Exhibit A: General Plan Land Use Map  
Amendment

## Exhibit A: General Plan Land Use Map Amendment



**Exhibit “2” Zoning Map and Text Amendment - Ordinance No. XX-XXX**

**Exhibit “2” Zoning Map and Text Amendment**

**REGULAR**

**NUMBER:** **XX.XXX**

**TITLE:** **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10, SECTION 6 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF THE NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU) ZONING DISTRICT AND TOWN CENTER (TC) SUBDISTRICTS AND AMENDING THE ZONING MAP DESIGNATION OF CERTAIN PARCELS WITHIN THE ZONING MAP**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_ 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:**

---

Suzanne Guzzetta, City Clerk

---

Carmen Montano, Mayor

**APPROVED AS TO FORM:**

---

Christopher Creech, Acting City Attorney

**Exhibit “2” Zoning Map and Text Amendment**

**RECITALS AND FINDINGS:**

**WHEREAS**, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

**WHEREAS**, Section 3.03 of Chapter 10 Zoning of Title XI of the Milpitas Municipal Code, divides the City into zoning districts; and

**WHEREAS**, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Zoning Map; and

**WHEREAS**, the City wishes to amend the Zoning map and Zoning text to establish the Neighborhood Commercial Mixed-Use (NCMU-1,2,3) districts and subdistricts, update the existing Town Center (TC) districts to establish the subdistricts (TC-1,2,3) within the Zoning Text and Zoning Map, which has been initiated by this Ordinance; and

**WHEREAS**, on February 26, 2025, the Planning Commission held a duly-noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and recommended the City Council approve the proposed amendments; and

**WHEREAS**, per Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council likewise finds that the Zoning Code Amendment set forth herein will not adversely affect the public health, safety and welfare, in that the Project will not adversely affect the public health, safety and welfare. Additionally, an Addendum to the Milpitas General Plan Update Final EIR (March 2021, SCH #2020070348) was prepared pursuant to CEQA Guidelines Sections 15162 and 15164, to evaluate whether the Project’s environmental impacts are covered by and within the scope of the Milpitas General Plan FEIR. The Addendum Evaluation details any changes in the project, changes in circumstances under which the Project is undertaken, and/or “new information of substantial importance” that may cause one or more effects to environmental resources. The Addendum substantiates and supports the City’s determination that the HOD changes are within the scope of the General Plan EIR, do not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the EIR; and

**WHEREAS**, a Supplemental Letter to the Addendum was prepared in response to the Project revisions and found that the proposed the proposed changes are consistent with the overall land use and growth projections assumed within the General Plan EIR, which already accounted for and mitigated potential environmental impacts; and

**WHEREAS**, since the environmental conditions have not changed since the April 2024 Addendum, the baseline conditions for analyzing impacts remain the same. Consequently, the reduced buildout further supports the conclusion that the impacts would be less significant, and the conclusions of the Addendum remain valid; and

**WHEREAS**, on \_\_\_\_\_, 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

## **Exhibit “2” Zoning Map and Text Amendment**

**WHEREAS**, the City Council finds that with the approval (by separate resolution) of General Plan Map and Text Amendment No. GP24-0001, Zoning Text, and Map Amendment No. ZA24-0001 and, the Zoning Code and the General Plan will be internally consistent; and

**WHEREAS**, prior to taking action on this Ordinance, the City Council has taken separate action to adopt the Housing Opportunity District Addendum to the Milpitas General Plan 2040 EIR (SCH #2020070348) and the Supplement Letter to the Addendum and impose it as a condition of project approval; and

**WHEREAS**, these amendments represent a comprehensive approach to addressing housing challenges while promoting sustainable and vibrant mixed-use neighborhoods in Milpitas. The Project as a pivotal strategy in addressing Milpitas' housing needs while revitalizing our commercial centers. The project aligns with the City's General Plan and Housing Element overall, emphasizing the importance of balanced land uses that meet the needs of our residents and businesses.

**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 MAP AMENDMENT FINDINGS (XI-10-57.02)**

The City Council makes the following findings based on the evidence in the public record in support of Zoning Amendment No. ZA24-0001:

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

The proposed text amendments are consistent with General Plan Policy LU 6-6, which states to encourage redevelopment and intensification of mixed-use areas by allowing standalone vertical mixed-use, or integrated horizontal mixed-use projects in mixed use areas, consistent with the Land Use Map and policies and actions included in this element. The proposed zoning adopts a place-based and flexible approach by establishing three distinct NCMU zones (NCMU1, NCMU2, and NCMU3) and three TC zones (TC1, TC2, and TC3). These zones consider factors such as parcel size, location, current use, and future potential. Each zone permits increased residential density and a reduced minimum non-residential FAR, promoting versatility in development. The Housing Element supports this change with Policy HE 3.7: support the adaptive reuse, renovation, conversion, or redevelopment of economically underutilized properties or buildings for residential or mixed-use development. This is further supported by the General Plan's proposed text updates associated with this Project to ensure consistency between the Zoning Text and the General Plan. The Project is specifically consistent with General Plan Policy LU 6-5, which states to promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers. The proposed map amendments are consistent with the text amendments and the General Plan because the proposed map changes to the identified parcels, zoned Town Center (TC) and Neighborhood Commercial Mixed Use (NCMU), are also implementing the existing General Plan land use designations. Furthermore, the proposed amendments introduce specific development standards related to permitted uses, parking, and

## **Exhibit “2” Zoning Map and Text Amendment**

open space, which are intended to implement the General Plan vision for the NCMU and TWC designations.

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

The proposed text and map amendment are found to have no adverse effects on the public health, safety, and welfare. The amendments are designed to enhance the efficiency and effectiveness of the City's zoning regulations, ensuring that they remain current and responsive to changing community needs. The amendments have been carefully reviewed and analyzed to assess their potential impacts on public health, safety, and welfare. This analysis has been done through a place-based approach sensitive to the needs and circumstances of the areas that will be rezoned. These areas have been selected as being capable of supporting this development, and development standards have been selected that are specific to this area and its circumstances. As confirmed by the Addendum to the Milpitas General Plan Update Final EIR and the Supplemental Letter to the Addendum, traffic, environmental impacts, access to essential services, and community well-being will not be impacted in a manner that would significantly affect public health, safety, and welfare. Also, the City retains authority through discretionary approvals to address project-specific health, safety, and welfare concerns.

### **SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 6.0**

Title XI, Chapter 10, Section 6 Mixed Use Zones and Standards is hereby amended to read as follows:

#### **Section 6 Mixed Use Zones and Standards**

##### **XI-10-6.01 Purpose and Intent**

- A. Mixed Use ("MXD") Zoning District. The purpose of the MXD zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. It is intended that the residential and commercial use allowed in the "MXD" District combine to provide for an "around-the-clock-environment" with urban open areas (i.e. plazas, squares) that serve multiple purposes and can be used for special events.
- B. High Density Mixed Use ("MXD2") Zoning District. The purpose of the MXD2 zoning district is to encourage a mix of retail, restaurant, entertainment, and commercial service uses on the ground floor with residential or office uses on the floors above while maintaining a pedestrian-oriented streetscape. It is intended that the retail or restaurant space required will ensure neighborhood-oriented retail and services are provided within walking distance of high density residential development.
- C. Very High Density Mixed Use ("MXD3") Zoning District. The purpose of the MXD3 zoning district is to provide very-high density housing, retail and employment uses.
- D. Neighborhood Commercial Mixed Use ("NCMU") Zoning District. The purpose of the NCMU zoning district is to encourage a compatible mix of residential, retail, entertainment, office, and commercial uses. It is intended that the neighborhood-serving active uses such as grocery stores, retail, restaurants, and personal services at key locations on the ground level will help create a

pedestrian oriented streetscape and public spaces. The NCMU Zoning District is subdivided into three subdistricts:

1. NCMU1 allows commercial or mixed-use development the primary function as a commercial center to provide goods and services to the immediate neighborhood. The mix of uses may be vertical or horizontal.
2. NCMU2 allows commercial or mixed-use development with some active commercial storefronts along the street frontages.
3. NCMU3 allows commercial, mixed use, or residential only development with no minimum commercial FAR. NCMU3 includes parcels that are less suitable for commercial use, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones.

E. Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, dining, and cultural activities along with some residential uses in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network. The TC Zoning District is subdivided into three subdistricts:

1. TC1 allows commercial or mixed-use development with the primary function as a commercial center to provide goods and services to the immediate neighborhood and larger community. The mix of uses may be vertical or horizontal.
2. TC2 allows commercial or mixed-use development with active commercial storefronts along the street frontages.
3. TC3 allows commercial, mixed-use or residential only development with no minimum commercial FAR. TC 3 includes parcels that are less suitable for retail uses, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones.

## **XI-10-6.02 Mixed Use Regulations**

### **A. Permitted and Conditionally Permitted Uses.**

1. Primary uses. The uses identified in Table 6.02-1, Mixed Use Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table 6.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.

O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.
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2. Accessory Uses.

- Massage Services. Massage services may be allowed as an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facility (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck, shoulders, hands and feet may be allowed as an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6.

B. Prohibited Uses. The following uses are prohibited:

- Uses where the symbol "NP" appears within Table 6.02-1.
- The following uses are not permitted in any mixed use zone:
  - Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
  - Disinfecting and extermination business.
  - Ground level residential in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1 and Zoning Map.
  - Outdoor storage of vehicles.
  - Private self-storage facilities
  - Single family detached dwellings
  - Two family dwelling units

C. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure, prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-6.02-1**  
**Mixed Use Zone Uses**

Use	MXD	MXD2		MXD3	NCMU1,2,3	TC1,2,3
		Ground Level (Facing Retail street)	Upper Floor			
<b>1. Commercial Uses</b>						
Alcohol beverage sales	C	C	C	C	C	C
Business support services <sup>1</sup>	P/NP <sup>2</sup>	P/NP <sup>2</sup>	NP	P/NP <sup>2</sup>	P/NP <sup>2</sup>	MC
Grocery stores (supermarkets) <sup>3</sup>	C	C	C	C	P	P
Pawnshops <sup>4</sup>	C	C	C	C	NP	NP
Personal services <sup>1,5</sup>	P	P	P	P	P	P

Pet shops	C	NP	NP	NP	NP	P
Repair and cleaning shop, small items <sup>1</sup>	P	P	P	MC	MC	P
Retail stores, general merchandise <sup>6</sup>	P	P	MCS	MCS	P	P
Thrift shops (used merchandise)						
Retail	P	P	P	P	P	P
With collections	C	C	C	C	C	NP
Drive Through Uses	NP	NP	NP	NP	NP	C
<b>2. Entertainment and Recreation</b>						
Commercial athletic facilities	P	P	P	P	MCS in NCMU1	P
“Theaters (Indoor)”						
Recreation or entertainment facility	C	C	C	C	NP	C
<b>3. Health and Veterinarian Uses</b>						
Animal grooming (no boarding)	P	P	NP	P	NP	P
Hospitals or sanitariums <sup>7</sup>	C	C	C	C	NP	C
Massage establishment <sup>8</sup>	MC	MC	MC	MC	MC	MC
Massage establishment, accessory <sup>8</sup>	MCS	MCS	MCS	MCS	MCS	MCS
Medical or dental offices and clinics	P	NP	P	P	P (upper floors) MCS (ground floor)	P
Medical support laboratories	P	P	P	P	NP	C
Optician and optometrist shop	P	P	P	P	P (upper floors) MCS (ground floor)	P
Pharmacy or drug store	P	P	P	P	P	P
Veterinarian clinic	P	P	P	P	NP	P
<b>4. Lodging</b>						
Bed and breakfast	P	P	NP	NP	NP	NP
Boarding houses (3 or more persons)	C	C	C	C	C	C
Group dwellings	C	C	C	C	C	C
Hotels	C	P	P	P	C	P
Motels	C	C	C	C	NP	NP
<b>5. Professional Offices, Financial Institutions and Related Uses</b>						
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P	P	P
Offices, business and professional <sup>6</sup>	MCS	NP	MCS	P	C	P
<b>6. Public/Quasi Public and Assembly Uses</b>						
Child care						

Child care center	C	P	C	P	C	C
Day care school	C	C	C	C	C	C
Large family child care home	P	P	C	P	P	P
Small family child care home	P	P	P	P	P	P
Instruction						
Group <sup>6</sup>	P	NP	NP	NP	P	P
Private	P	P	P	P	P	P
Park, playground or community center <sup>10</sup>	O	O	O	O	O	O
Places of assembly <sup>7</sup>	C	C	C	C	C	C
Public utilities	C	C	C	C	C	C
Schools, private (elementary, middle and high) <sup>5</sup>	C	C	C	C	C	C
Theaters (Indoor)	C	C	C	C	NP	C
Trade and vocational schools <sup>7</sup>	C	C	C	C	NP	C
Transportation facilities <sup>4</sup>	C	C	C	C	NP	C
<b>7. Residential Uses</b>						
Multi-family housing <sup>11</sup>	P	NP <sup>12</sup>	P	P	P <sup>12</sup>	P
Transitional and supportive housing <sup>11</sup>	P	NP <sup>12</sup>	P	P	P <sup>12</sup>	P
Accessory Dwelling Unit <sup>14</sup>	P	NP	P	P	P	P
<b>8. Restaurants or Food Service</b>						
Bar or nightclub	C <sup>15</sup>	C <sup>15</sup>	C	C <sup>15</sup>	C <sup>15</sup>	C
Brewery/Eateries	MCS	MCS	NP	MCS	MCS	MCS
Catering establishments	C	C	C	C	NP	P
Restaurants <sup>4</sup>	P/C	P/C	NP	P/C	P/C	P
With music (indoor/outdoor)	P <sup>15</sup>	P <sup>15</sup>	NP	P <sup>15</sup>	P <sup>15</sup>	P
With other live entertainment/dancing	C	C	NP	C	C	C
Mobile Food Vending (individual vehicle) <sup>16</sup>	P	P	NP	P	P	P
Mobile Food Park <sup>16</sup>	MC	NP	NP	MC	NP	MC
Commissary	MC	NP	NP	MC	NP	MC
<b>9. Unclassified Uses</b>						
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops <sup>4</sup>	MCS	MCS	MCS	MCS	MCS	MCS
Lobbies and entries for upper floor uses	P	P	NP	P	P	P
Model home complex <sup>17</sup>	P	P	P	P	P	P
Mixed use developments <sup>18</sup>	P	P	P	P	P	P
Planned Unit Development <sup>19</sup>	P	P	P	P	P	P
Temporary seasonal sales <sup>20</sup>	P	P	P	P	P	P
Short-Term Rentals <sup>21</sup>	P	NP	P	P	P	P
<b>10. Vehicle-Related Repair, Sales and Services</b>						
Auto sales and rental <sup>22</sup>	C	C	C	C	NP	NP

Auto broker (wholesale, no vehicles on site) <sup>4</sup>	MCS	MCS	MCS	MCS	NP	MCS
Vehicle service uses <sup>23</sup>	C	NP	NP	C	NP	C

<sup>1</sup> Refer to Subsection XI-10-6.02-1(B), Performance standards for certain uses, of this Chapter, for standards.

<sup>2</sup> Copy/quick-printing shops and mailbox rental facilities shall be permitted in all MXD, MXD2 (Ground Floor), MXD3, and all NCMU zones. All other uses classified as Business Support Services shall not be permitted in these zones.

<sup>3</sup> Grocery stores with floor area up to 15,000 square feet are permitted. Grocery stores exceeding 15,000 square feet may be permitted subject to the approval of a Conditional Use Permit pursuant to Subsection XI-10-57.04 of this Chapter.

<sup>4</sup> Refer to Subsection XI-10-6.02-1, Special Uses, of this Chapter, for standards.

<sup>5</sup> When located on the ground floor, retail sales of products related to the Personal Services provided shall be offered at the front of the premises near the pedestrian entrance and shall comprise at least 10 percent of the floor area of the business establishment.

<sup>6</sup> Refer to Subsection XI-10-6.02-1(B) Performance standards for certain uses, of this Chapter.

<sup>7</sup> Refer to Subsection XI-10-6.02-2, Quasi-Public Uses, of this Chapter, for standards.

<sup>8</sup> Massage establishments are subject to Title III, Chapter 6 of the Milpitas Municipal Code and Subsection XI-10-13.16 of this title. Refer to Subsection XI-10-13.16, of this Title, for special provisions for massage establishments.

<sup>9</sup> Reserved

<sup>10</sup> For parks, playgrounds or community center owned and operated by a government agency or a nonprofit community organization.

<sup>11</sup> Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.

<sup>12</sup> Uses serving upper-floor residential uses, such as common gathering space, lobby, and resident services, may be allowed as ground floor uses where residential uses would otherwise not be permitted.

<sup>14</sup> Only allowed within multi-family dwellings, subject to the requirements of Subsection XI-10-13.08, Accessory Dwelling Units, of this Chapter.

<sup>15</sup> Indoor or outdoor music is permitted as an accessory use on the same parcel in conjunction with a restaurant or bar that is a principal permitted use or approved conditional use in the MXD, MXD2, MXD3, and NCMU zones. See also Subsection XI-10-6.06(B) for additional regulations.

<sup>16</sup> Refer to Subsection XI-10-13.18, Mobile Food Vending, of this Chapter.

<sup>17</sup> Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

<sup>18</sup> Which include only permitted uses.

<sup>19</sup> Refer to Section XI-10-54.07, Planned Unit Developments, of this Chapter, for standards.

<sup>20</sup> Refer to Section XI-10-13.11(D), Temporary Seasonal Sales, of this Chapter.

<sup>21</sup>Only allowed within a dwelling unit, subject to the requirements of Subsection XI-10-13.17, Short-Term Rentals, of this Chapter.

<sup>22</sup>New and used auto, recreational vehicle and boat sales, excluding commercial vehicles, trucks, buses, vans, and farm equipment, with accessory repairs and services, only allowed if fully enclosed within a building. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, only if fully enclosed within a building.

<sup>23</sup>Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

## **6.02-1 Mixed Use Zone Special Uses**

A. Special Uses within all MXD zones. Certain uses noted in Table 6.02-1, Mixed Use Zone Uses may be allowed through the approval of a Conditional Use Permit and Minor Conditional Use Permits, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter, if they are not located within one thousand (1,000) feet of another same use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Auto service uses, including but not limited to: gasoline service stations, car washes, tire shops, towing without vehicle storage and auto repair shops of all kinds, radiators, paint, body, glass, brakes, upholstery, and other similar types.
2. Local transportation service facilities (e.g. taxi, parcel service, ambulance, armored car, and van storage) without outdoor storage of vehicles.
3. Pawnshops.

B. Performance Standards for Certain Uses. For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards below shall be met.

1. Auto Brokers. Auto Brokers may be permitted by right if the following standards are met:
  - a. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of business license submittal.
2. Auto Service Uses. Auto Service uses shall comply with the following standards:
  - a. All operations shall be conducted completely within an enclosed building.
  - b. Entrances to the service bays shall not be open to the street but shall be designed to face the rear or interior side property line.
3. Artisans, Plumbing, Metalworking, Sign Shops and Woodworking or glass working shops. These uses shall comply with the following standards:
  - a. All operations shall be conducted completely within an enclosed building.
  - b. There shall be no dust, fume, or odor either emitted from the premise.
  - c. The operations shall not create excessive vibrations.

- d. The operations shall be consistent with the City's noise standards.
- e. Plumbing, metalworking, sign shops, woodworking or glass working shops shall not be closer than 1,000 feet of another same use measured from the property line.

4. Personal Services, Business Support Services, and Repair and Cleaning-Small Items uses shall comply with the following:

- a. When located within the MXD zone:
  - i. Located in the area designated for ground floor retail and are less than or equal to ten thousand (10,000) square feet in gross floor area;
  - ii. Located in the areas not designated for ground floor retail and are less than or equal to fifty thousand (50,000) square feet in gross floor area.
- b. When located within the MXD2 and MXD3 zones they are less than or equal to fifty thousand (50,000) square feet in gross floor area;
- c. They are not open past 10:00 p.m.;
- d. They are not specifically noted in Table 6.02-1, Mixed Use Zone Uses, of this chapter, requiring Conditional Use Permit approval or listed as a prohibited use;
- e. They are not listed as a prohibited use in Section 10-6.02 (B), Prohibited Uses, of this Chapter.

If items a through c above are not met, then approval of a Conditional Use Permit is required in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter. Exceptions to the requirement for a Conditional Use Permit for such uses may be granted at the discretion of the Planning Director on a case-by-case basis, based upon a review of site-specific conditions.

5. Group Instruction uses shall comply with the following standards:

- a. No loitering shall be permitted before or after any classes or sessions.

6. Restaurants may be permitted provided:

- a. They have only ancillary on-premise consumption of beer and wine associated with food sales;
- b. They have no separate bar area;
- c. When located within the MXD2 and MXD3 zones they are located on the ground floor facing a public street designated as a retail mixed use street; and
- d. They conform to the performance standards listed in this subsection (e) below.

If items (a) through (c) above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this Chapter.

- e. Restaurant Performance Standards. Restaurants shall comply with the following performance standards:
  - i. Seating shall not exceed that which the amount of parking allocated for the restaurant space would allow. A sign measuring at least one (1) foot by one (1) foot, with a lettering height of at least three (3) inches, shall be placed in a conspicuous

location near the restaurant front entrance stating the maximum total seating allowed. Outdoor seating is allowed if it has been approved as part of the facility's Minor Site Development Permit or Site Development Permit and is operated in conformance with any conditions of that approval.

- ii. The restaurant shall comply with the City Council's Guidelines for Recycling Enclosures (Resolution No. 6296).
- iii. The restaurant shall incorporate measures to reduce odors to acceptable levels, including, but not limited to, installation of a scrubber, carbon filter or similar equipment, on the roof vent to control odors.
- iv. All the facility's floor drains, trash compactors and indoor mat and equipment washing areas shall be drained to the sanitary sewer.
- v. Where applicable, the restaurant shall maintain an active account with a tallow hauling company.
- vi. The restaurant shall prepare and implement a program assigning restaurant staff responsibility for complying with the following guidelines which shall be adhered to while the restaurant is in operation:
  - 1) Wash all containers and equipment in the kitchen areas so that wash water may drain into the sanitary sewer.
  - 2) Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.
  - 3) Double bag waste to prevent leaking.
  - 4) Place, do not drop or throw, waste-filled bags, to prevent leaking.
  - 5) Keep the ground under and around the garbage dumpsters swept.
  - 6) Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
  - 7) Hold training sessions to instruct employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards. A record of such training must be kept to prove compliance with this requirement.
  - 8) Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.
  - 9) All garbage bins shall be stored in the garbage enclosure except for the twelve (12) hours immediately before and after garbage collection.

7. Retail and Offices shall comply with the following:

- a. When located within the MXD zone:
  - i. Located in the area designated for ground floor retail and are less than or equal to ten thousand (10,000) square feet in gross floor area;

- ii. Located in the areas not designated for ground floor retail and are less than or equal to fifty thousand (50,000) square feet in gross floor area.
- b. When located within the MXD2 and MXD3 zones they are less than or equal to fifty thousand (50,000) square feet in gross floor area; d. They are not open past 10:00 p.m.;
- e. They are not specifically noted in Table 6.02-1, Mixed Use Zone Uses, of this Chapter, requiring Conditional Use Permit approval or listed as a prohibited use; and
- f. They are not listed as a prohibited use in Section 10-6.02 (B), Prohibited Uses, of this Chapter.

If items a through c above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.

C. Mixed Use and Residential-Only Development Projects in the NCMU and TC zones.

- 1. Mixed use developments in the NCMU and TC zones shall provide commercial or active spaces designed to accommodate neighborhood-serving commercial uses at the ground level, and may include residential units. A proposed project in NCMU1, NCMU2, TC1, and TC2 shall include a minimum non-residential component in full compliance with the requirements of its zoning district as defined in section 11-10-6.04 Mixed Use Zone General Development Standards.
- 2. 100% affordable developments in NCMU1, NCMU2, TC1, and TC2 are exempt from the minimum non-residential requirement.
  - a. 100 percent of the residential units must be affordable to low-income (earning up to 80 percent of area median income) and/or very low income (earning up to 50 percent of area median income) households, as defined by the U.S. Department of Housing and Urban Development.
  - b. Affordability requirements shall be administered through a deed restriction, such as a restrictive covenant or other legally enforceable recorded instrument, for a minimum term of 55 years.

**6.02-2 Quasi-Public Uses within MXD, NCMU, and TC Zones**

- A. Churches and religious institutions are permitted in any location within the MXD, NCMU, and TC Zones.
- B. 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 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.
  - 2. Hospitals or sanitariums.
  - 3. Private elementary, middle or high schools.

4. Vocational schools, if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis.

### **XI-10-6.03 Affordable Housing**

Affordable housing units should be provided in all new housing projects. Except as provided in Subsection XI-10-6.02-1(C)(2), while twenty percent (20%) is the minimum goal, affordable unit requirements will be determined on a project by project basis, taking into consideration the size and location of the project, the type of housing unit, proximity to transit and the mix of affordable units in the vicinity.

### **XI-10-6.04 Mixed Use Zone General Development Standards**

- A. Standards within Specific Plan Areas. For properties located within a Specific Plan, refer to the Specific Plan for development standards. When a standard is not listed within the Specific Plan, the standards listed within the zoning ordinance shall govern.
- B. General Standards. The following minimum requirements shall be observed. The minimum requirement shall be one of the following for the district classification as designated on the zoning map.

**Table XI-10-6.04-1**  
**Mixed Use Zone Development Standards**

Standards	MXD	MXD2	MXD3
Non-residential lot area minimum	Individual sites shall be of such size that all space requirements provided in this section are satisfied.	Individual sites shall be of such size that all space requirements provided in this section are satisfied.	Individual sites shall be of such size that all space requirements provided in this section are satisfied.
Density, Minimum-Maximum Residential (Dwellings) <sup>1</sup>	21 min. 30 max. per gross acre. For additional standards refer to Section 6.04(C), Multi-Family Residential Density within the MXD, MXD2 and MXD3 zones	31 min. 40 max. per gross acre. For additional standards refer to Section 6.04(C), Multi-Family Residential Density within the MXD, MXD2 and MXD3 zones.	41 min. 60 max. per gross. For additional standards refer to Section 6.04(C), Multi-Family Residential Density within the MXD, MXD2 and MXD3 zones.
Front and Street-Side Yard Setback, Minimum	Refer to Section 6.04(D), Front and Street-Side Yard Setbacks.	Refer to Section 6.04(D), Front and Street-Side Yard Setbacks.	12 ft. min. 20 ft. max. For additional standards refer to Section 6.04(D), Front and Street-Side Yard Setbacks, of this chapter.
Interior-Side Yard Setback, Minimum <sup>2</sup>	Ground Level Commercial Area: 0 ft. All other areas: 10 ft.	0 ft. Except when abutting residential use and for portions of buildings over 60 ft. or four stories tall, where the interior side yards shall be a minimum of 10 ft.	10 ft. 15 ft. when abutting residential. 20 ft. for portions of buildings over 60 ft. or four stories tall.

Rear Yard Setback, Minimum <sup>3</sup>	10 ft.	10 ft. 15 ft. when abutting residential 20 ft. for portions of buildings over 60 ft. or four stories tall.	15 ft. 20 ft. when abutting residential 30 ft. for portions of buildings over 60 ft. or four stories tall.
Floor Area Ratio, Non-Residential and Mixed Use projects	For buildings and portions thereof: .75 max.	1.5 max. Refer to Section 6.04(E), Floor Area Ratio, Non-Residential.	2.0 max. Refer to Section 6.04(E), Floor Area Ratio, Non-Residential.
Commercial Area, Minimum	Not Applicable	200 sq. ft. of retail, restaurant, or pedestrian-oriented commercial service uses, allowed in Table 6-02-1, Mixed Use Zone Uses, must be provided for every unit, using the minimum density.	Not Applicable
Building Height <sup>4</sup>	Principal building: 3 stories and 45 ft.	Principal building: 6 stories or 75 ft. Principal buildings with frontage along Great Mall Parkway: 12 Stories or 150 ft. Greater height, up to 20 stories may be allowed through the approval of a Conditional Use Permit.	Principal buildings: 12 stories or 150 ft. Greater height, up to 20 stories may be allowed through the approval of a Conditional Use Permit.
Landscaping	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.
Parking	Refer to Section 53, Off Street Parking Regulations, of this Chapter.	Refer to Section 53, Off Street Parking Regulations, of this Chapter.	Refer to Section 53, Off Street Parking Regulations, of this Chapter.

<sup>1</sup> For MXD3 properties, density may be averaged over contiguous parcels.

<sup>2</sup> To mitigate the effects of adjacent service commercial or light industrial uses, increased setbacks and other measures, such as solid six-foot fence or masonry wall, shall be considered on a case by case basis by the Planning Commission during the Site Development Permit process, taking into consideration the nature of adjacent uses.

<sup>3</sup> See Note 2 above.

<sup>4</sup> Within the MXD zone, special architectural features, such as towers or corner elements may be up to 55 ft.

**Table XI-10-6.04-2**  
**NCMU Zone Development Standards**

Standards	NCMU1	NCMU2	NCMU3
Lot area minimum	None	None	None
Density, Minimum-Maximum Residential (Dwellings) <sup>1</sup>	Maximum: 60 du/ac	Maximum: 60 du/ac	Minimum: 30 du/ac Maximum: 60 du/ac
Front and Street-Side Yard Setback, Minimum	10' Residential 0' Commercial	10' Residential 0' Commercial	10' Residential 0' Commercial
Interior-Side Yard Setback, Minimum <sup>2</sup>	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.
Rear Yard Setback, Minimum <sup>3</sup>	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 25 ft.
Floor Area Ratio, Non-Residential and Mixed Use projects	No min. for commercial only project.  0.20 min. commercial for mixed use projects. Minimum FAR may be calculated or distributed throughout a development and across multiple adjoining parcels. 0.50 max.  Maximum FAR does not apply to hotels.	No min. for commercial only project.  0.10 min. commercial for first 100 feet of parcel depth fronting a public street for mixed-use projects. Note: Minimum commercial FAR may be calculated or distributed throughout a development and across multiple adjoining parcels and is not required to be located	No min. commercial FAR 0.50 max.  Maximum FAR does not apply to hotels.

		within the first 100 feet of parcel depth. 0.50 max.  Maximum FAR does not apply to hotels.	
Building Height	60' and 5 stories	60' or 5 stories	60' or 5 stories
Landscaping	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.
Parking	Refer to Section 6.04 (H) Parking.	Refer to Section 6.04 (H) Parking.	Refer to Section 6.04 (H) Parking.

<sup>1</sup> For NCMU3 properties, density may be averaged over contiguous parcels.

<sup>2</sup> To mitigate the effects of adjacent service commercial or light industrial uses, increased setbacks and other measures, such as solid six-foot fence or masonry wall, shall be considered on a case by case basis by the Planning Commission during the Site Development Permit process, taking into consideration the nature of adjacent uses.

<sup>3</sup> See Note 2 above.

**Table XI-10-6.04-3**  
**TC Zone Development Standards**

Standards	TC1	TC2	TC3
Lot area minimum	None	None	None
Density, Minimum-Maximum Residential (Dwellings) <sup>1</sup>	Maximum: 65 du/ac	Maximum: 65 du/ac	Minimum: 30 du/ac Maximum: 65 du/ac
Front and Street-Side Yard Setback, Minimum	For ground floor non-residential use: 15 ft.  For ground floor residential use: 20 ft.  For developments along E. Calaveras Blvd. 35 ft.	For ground floor non-residential use: 15 ft.  For ground floor residential use: 20 ft.  For developments along E. Calaveras Blvd. 35 ft.	For ground floor non-residential use: 15 ft.  For ground floor residential use: 20 ft.  For developments along E. Calaveras Blvd. 35 ft.
Interior-Side Yard Setback, Minimum <sup>2</sup>	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.

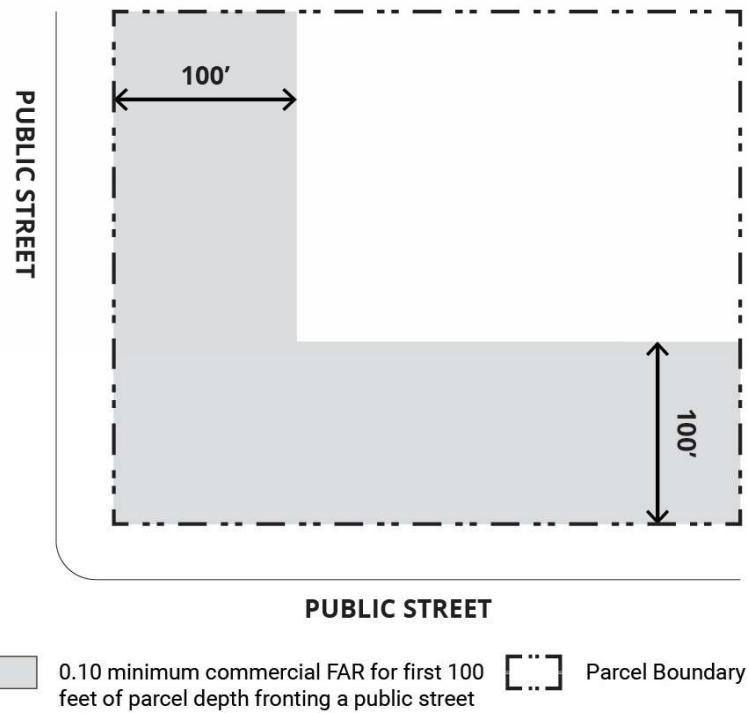
Rear Yard Setback, Minimum <sup>3</sup>	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.	For residential only and mixed-use developments: 10 ft.  For all other non-residential developments: None required  On lots abutting a single-family residential zone: 15 ft.
Floor Area Ratio, Non-Residential and Mixed Use projects	No min. for commercial only project.  0.35 min. commercial for mixed use projects. Minimum commercial FAR may be calculated or distributed throughout a development and across multiple adjoining parcels. 0.85 max.  Maximum FAR does not apply to hotels.	No min. for commercial only project.  0.10 min. commercial for first 100 feet of parcel depth fronting a public street. Note: Minimum commercial FAR may be calculated or distributed throughout a development and across multiple adjoining parcels and is not required to be located within first 100 feet of parcel depth 0.85 max.  Maximum FAR does not apply to hotels.	No min. commercial FAR 0.85 max.  Maximum FAR does not apply to hotels.
Building Height	75' and 6 stories	75' and 6 stories	75' and 6 stories
Landscaping	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.
Parking	Refer to Section 6.04 (H) Parking.	Refer to Section 6.04 (H) Parking.	Refer to Section 6.04 (H) Parking.

<sup>1</sup> For TC3 properties, density may be averaged over contiguous parcels.

<sup>2</sup> To mitigate the effects of adjacent service commercial or light industrial uses, increased setbacks and other measures, such as solid six-foot fence or masonry wall, shall be considered on a case by case basis by the Planning Commission during the Site Development Permit process, taking into consideration the nature of adjacent uses.

<sup>3</sup> See Note 2 above.

NCMU2 and TC2 Minimum Commercial Floor Area Diagram



C. Multi-Family Residential Density within Mixed Use zones.

1. MXD Standards.

- a. The minimum number of multi-family residential units may be reduced for parcels less than 20,000 square feet.
- b. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as allowed in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the density limits.

2. MXD2 Standards.

- a. The minimum number of multi-family residential units may be reduced for parcels less than 20,000 square feet.
- b. Units with four bedrooms shall be counted as 1.5 units when calculating density.
- c. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as allowed in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the density limits.

3. MXD3 Standards.

- a. Units with four bedrooms shall be counted as 1.5 units when calculating density.
- b. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as allowed in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the density limits.

4. NCMU1, NCMU2, and NCMU3 Standards.
  - a. Residential units with four bedrooms shall be counted as 1.5 units when calculating density.
5. TC1, TC2, and TC3 standards
  - a. Residential units with four bedrooms shall be counted as 1.5 units when calculating density.

D. Front and Street-Side Yard Setbacks. The following standards shall apply to front and street-side yard setbacks:

1. All MXD, NCMU, and TC zones.
  - a. Where a public easement prevents a building from being located at its required minimum or maximum setbacks, the building shall be located as close to the back of said easement as possible.
  - b. Trellises, canopies and fabric awnings may project up to five (5) into minimum front and street side setback areas and public right of ways, provided they are not less than eight (8) feet above the sidewalk.
  - c. All buildings shall be oriented towards the street. Primary building entrances shall be oriented toward the street. For buildings located on a corner lots, either street primary building entrances may be oriented to either street.
2. MXD zones:
  - a. All areas.
    - i. Balconies, bay windows, porches, stoops, trellises, canopies and awnings may project into the minimum setback areas provided at least sixty percent (60%) of the required setback area is landscaping.
    - ii. A building's first floor may be recessed from either the maximum front and street side building setback line or the specified build-to-line for the purposes of an arcade, or a small gathering/dining or special entry area.

The arcade shall have a minimum height of (8) feet, a minimum width of eight (8) feet. Other recessed areas may have maximum depth of ten (10) feet, and may not exceed forty percent (40%) of the building's street facing elevation. An entry door area up to nine (9) feet wide may be recessed up to four (4) feet from the back of the sidewalk.
  - b. Within the Midtown Specific Plan.
    - i. The Ground Level Commercial Area (as shown on the Specific Plan Land Use Map, Figure 3.1), shall have a build-to-line that is fifteen (15) feet behind the curb. The fifteen (15) feet between the curb and the building build-to-line shall be developed with sidewalk and street trees.
  - c. Outside the Midtown Specific Plan.
    - i. Minimum of eight (8) feet and a maximum of fifteen (15) feet from back of sidewalk. The sidewalk shall be based on either the existing sidewalk or assumed ten (10) foot wide sidewalk, whichever is wider.

3. MXD2 zones:

- a. All areas.
  - i. Balconies, bay windows, porches, stoops, trellises, canopies and awnings may project into the setback areas up to the property line.
  - ii. A building's first floor may be recessed from the front and street side building setback line for the purposes of an arcade, outdoor dining area, or special entry area. The arcade shall have a minimum height of (8) feet, and a minimum width of eight (8) feet. Other recessed areas may have a maximum depth of ten (10) feet, and may not exceed twenty percent (20%) of the building's street facing elevation. An entry door area up to nine (9) feet wide may be recessed up to four (4) feet from the front and street-side building setback.
- b. Within the Transit Area Specific Plan.
  - i. Setbacks are defined and illustrated in the street sections of Chapter 5 of the Transit Area Specific Plan.
- c. Outside the Transit Area Specific Plan.
  - i. Minimum eight (8) feet and a maximum of fifteen (15) feet from back of sidewalk.

E. Floor Area Ratio, Non-Residential. In addition to the standards listed in Table 6.04-1 Mixed Use Zone Development Standards for MXD2 and MXD3 zoned properties, the following shall apply:

1. A Floor Area Ratio of two and a half (2.5) for non-residential buildings may be considered for individual sites with a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted by Commission, of this Chapter.
2. There are no FAR or density limits for hotels.
3. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as provided for in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the FAR calculation.
4. Buildings which include both non-residential uses and residential uses on the upper floors shall be considered "non-residential," and Floor Area Ratio standards shall apply.

F. Landscaping. All required front and street setback areas shall be landscaped or paved to allow for outdoor seating, display or goods, or street furniture.

G. Park and Open Space Requirements for Residential Uses.

1. Areas within Midtown Specific Plan.
  - a. All residential projects within the Midtown Specific Plan area shall provide park land at a ratio of three and one-half ( $3\frac{1}{2}$ ) acres per one thousand (1,000) population. Up to one and one-half (1 $\frac{1}{2}$ ) of each three and one-half ( $3\frac{1}{2}$ ) total park acres required (43%) may be satisfied by the provision of private recreational areas. The remaining park land requirement must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1).

- b. A minimum of twenty-five percent (25%) of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas.
  - c. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. Balconies and porches located above ground level with a minimum dimension of 4½ feet constructed for use by dwelling units shall be exempt from the useable open space dimension standards above and within Section 2 of this Chapter, and may be considered to satisfy usable open space requirements. Each dwelling unit shall be provided with private open space as follows:
    - i. Balconies and porches (above ground level): minimum sixty (60) square feet; or
    - ii. Patios (at ground level): minimum one hundred square feet.
- 2. Areas within Transit Area Specific Plan.
  - a. All residential projects shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population.
    - i. Two (2) of the required three and one-half (3.5) acres must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1). Land dedication is required if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
    - ii. Up to one and one-half (1.5) of each three and one-half (3.5) total park acres required (43%) may be satisfied by the provision of private recreational areas. Private open space cannot be shared between separate developments.
  - b. Each residential project shall provide adequate on-site usable open space or recreational facilities to the approval of the Planning Commission through the Site Development Permit process. Each dwelling unit shall be provided with private open space as follows:
    - i. Balconies (above ground level): minimum forty (40) square feet; or
    - ii. Patios and porches (at ground level): minimum fifty (50) square feet.
  - c. All development projects shall dedicate land for parks if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
  - d. All commercial development projects shall dedicate and/or improve public trails if a trail is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
  - e. Twenty percent (20%) of a landscape buffer area may count towards the public park and open space requirements when it includes trails or wide sidewalks connected to the pedestrian and bicycle network.
  - f. Park Sites: Parks must be bordered by public streets, or public right-of-way such as a trail or railroad right-of-way, on at least three sides.
- 3. Areas designated NCMU and TC
  - a. Park Land. All residential projects shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population.

- i. Park Land must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1).
- b. Publicly Accessible Parks and Open Spaces. All mixed use or residential only projects on sites between 3 acres and 5 acres shall dedicate 5% of total site area to publicly accessible parks and open space. All mixed use or residential only projects greater than 5 acres shall dedicate 10% of total site area to publicly accessible parks and open space. Publicly accessible parks, plazas, and open spaces provided to meet the requirement below may be counted towards the park land requirement above.
- c. Usable Open Space. A minimum of twenty-five percent (25%) of the total site shall be usable open space or recreational facilities. Usable open space may be provided as Common Open Space or Private Open Space.

5. Areas outside Specific Plans.

- a. All residential projects outside a Specific Plan area shall comply with the park land dedication provisions provided in Section 9.06 (Amount of Park Land to be Dedicated) of the Milpitas Subdivision Ordinance.

Parking Summary: Requirements are located in Section 53

1. Areas designated NCMU and TC

- a. The minimum number of parking spaces required for residential uses shall be 1 space per unit.
- b. The minimum number of parking spaces required for commercial uses shall be 1 space per 300 sq.ft. of commercial use.

For other parking-related standards, refer to Section 53, Off Street Parking Regulations, of this Chapter.

TABLE IS EXCEPRT FROM SECTION 53

Residential use	
Studio	1 covered per unit
1 bedroom	1 covered per unit
2—3 bedrooms	1 covered per unit
4 or more bedrooms	1 per unit, plus 1 additional space for each additional bedroom (at least two covered). <sup>4</sup>
Guest parking for residential	
Projects with Parking structures	10% of the total required, may be uncovered
Projects with Private garages	10% of the total required, may be uncovered

Bicycle parking	5% of total required
Commercial use	
Ground Floor Retail	1 per 300 sq. ft.
Office	1 per 300 sq. ft.
Restaurants	1 per 300 sq.ft.
Short-Term Rentals	1 per unit
Other uses	Refer to specific uses within this table
Bicycle parking	5% of total auto spaces required
Mobile Homes	Refer to Section 13.07, Mobile Homes
Senior Housing	0.5 per unit plus 2 per manager's unit
Single Room Occupancy (SRO)	none required

#### **XI-10-6.05 Reserved**

#### **XI-10-6.06 Special Development Standards**

##### **A. Utilities.**

1. Utilities shall be placed in underground or subsurface conduits.
2. All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts.
3. Rooftop mechanical equipment shall be concealed from street level views through roof designs that are architecturally integrated with the building, such as equipment wells and parapets.
4. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
5. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.

6. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this section.
7. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building, and be well landscaped.
8. All telecommunications antennas shall be building facade or roof mounted and screened appropriately.
9. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e. "stealth" antennas) may be used.

B. Outdoor music

1. Outdoor music as an accessory use in conjunction with a restaurant or bar in the MXD, MXD2, MXD3, NCMU, and TC zones shall be permitted for the entertainment and enjoyment of customers at the restaurant or bar during regular operating hours. Outdoor music as an accessory use shall be limited to the hours of 9:00 am to 11:00 pm.
2. Recorded background music may be permitted outdoors on public sidewalks and other public areas subject to the standards of this Chapter and Title V – Public Health, Safety and Welfare, Chapter 213 – Noise Abatement.
3. Noise levels for outdoor music, when permitted as an accessory use to a restaurant or bar, shall not exceed a maximum range of 70 to 90 decibels (dB). See also Title V – Public Health, Safety and Welfare, Subsections V-213-2 and V-213-3, for additional regulations.
4. Larger outdoor music events, both live and recorded music, that are intended for the entertainment and enjoyment of the general public shall not be considered accessory uses and shall require a Special Event Permit pursuant to Section 15, Special Events and Activities, of this Chapter.

**XI-10-6.07 Exceptions to Standards**

1. Exceptions to all but the use, floor area ratio, density, and park land requirement regulations of this Section may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57, Conditional Uses Permitted by Commission, of this Chapter.
2. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following two additional findings for such exceptions:
  - a. The exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
  - b. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard.

## **XI-10-6.08 Conformance with Specific Plans**

Properties located within Specific Plans shall conform to the underlying Specific Plan in accordance with Section XI-10-11.06, Conformance with Specific Plans, of this Chapter.

## **SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 6.0 (ZONING MAP)**

The Zoning Map of the City of Milpitas, as amended, which was adopted as part of ordinance No. 38, enacted as Chapter XI-10 (Zoning, Planning, and Annexations) of the Milpitas Municipal Code, is hereby amended by rezoning the land use designation of approximately 273- acre area within the depicted maps as attached Exhibit A, B, C, and D and separately listed in Exhibit E.

## **SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The adoption of this Ordinance is under the authority of an Addendum to the Milpitas General Plan Update Final EIR (March 2021, State Clearinghouse No. 2020070348); that was prepared pursuant to CEQA Guidelines Sections 15162 and 15164, to evaluate whether the Project's environmental impacts are covered by and within the scope of the Milpitas General Plan Update FEIR. The Addendum Evaluation details any changes in the project, changes in circumstances under which the project is undertaken, and/or "new information of substantial importance" that may cause one or more effects to environmental resources. The attached Addendum substantiates and supports the City's determination that the HOD changes are within the scope of the General Plan EIR, do not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the EIR. Further, although the Project has been revised from the initial Addendum, dated April 2024, Rincon Consultants, Inc., on behalf of the City, prepared a Supplemental Letter (memorialized as an attachment to the staff report, dated January 28, 2025) and found that the proposed zoning changes and the latest revisions would result in a reduced buildout compared to the Addendum analysis. This reduction in residential units and the consistency in non-residential space reduction, specifically commercial FAR minimums and maximums, ensure that the impacts would be less significant, as previously analyzed, and similar to or reduced compared to the Addendum conclusions. Additionally, the proposed changes are consistent with the overall land use and growth projections assumed within the General Plan EIR, which has already accounted for and mitigated potential environmental impacts. Since the environmental conditions have not changed since the April 2024 Addendum, the baseline conditions for analyzing impacts remain the same. Consequently, the reduced buildout further supports the conclusion that the impacts would be less significant, and the conclusions of the Addendum remain valid. Based on its independent review and consideration, the City Council hereby finds that the Addendum and the Supplemental Letter to the Addendum complies with the requirements of CEQA and adopts the conclusions in the Addendum and the Supplemental Letter to the Addendum on the basis of the evidence and reasoning set forth therein.

## **SECTION 6. SEVERABILITY**

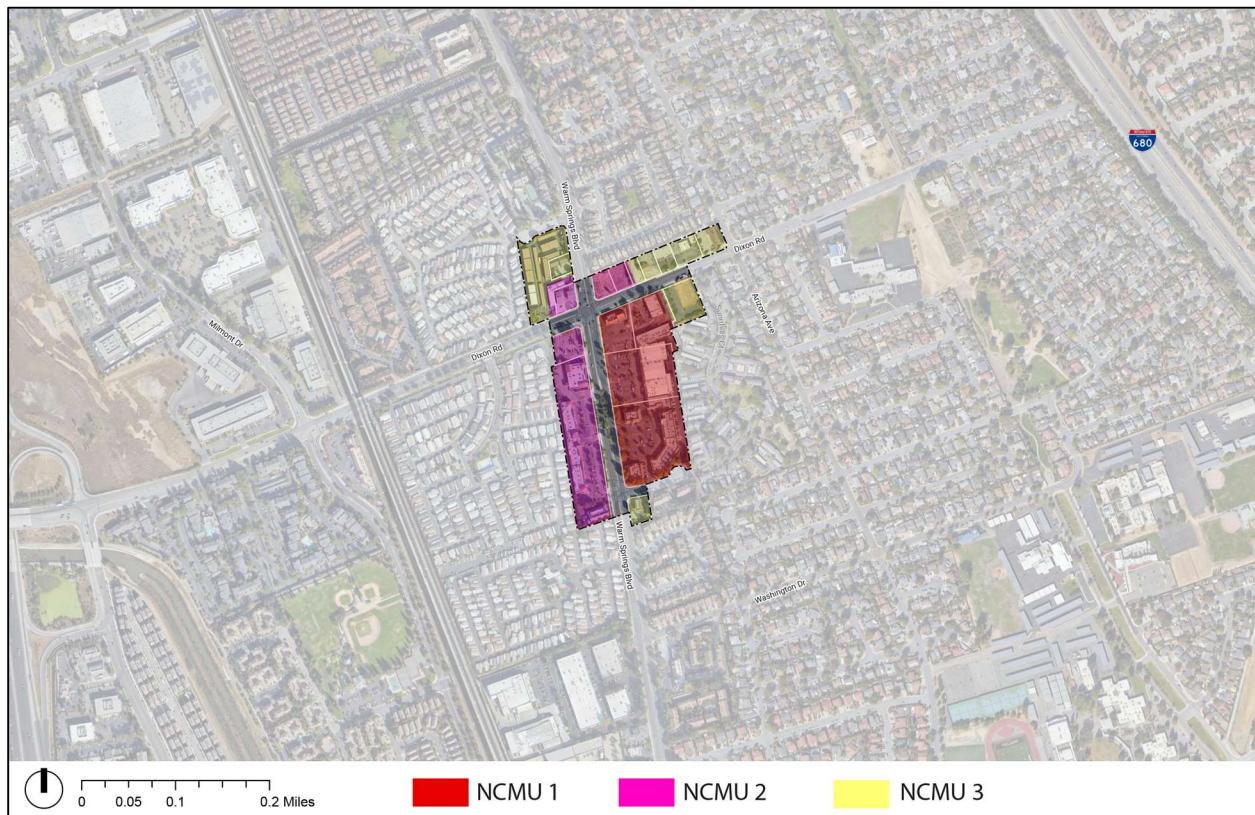
The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

## **SECTION 7. EFFECTIVE DATE AND POSTING**

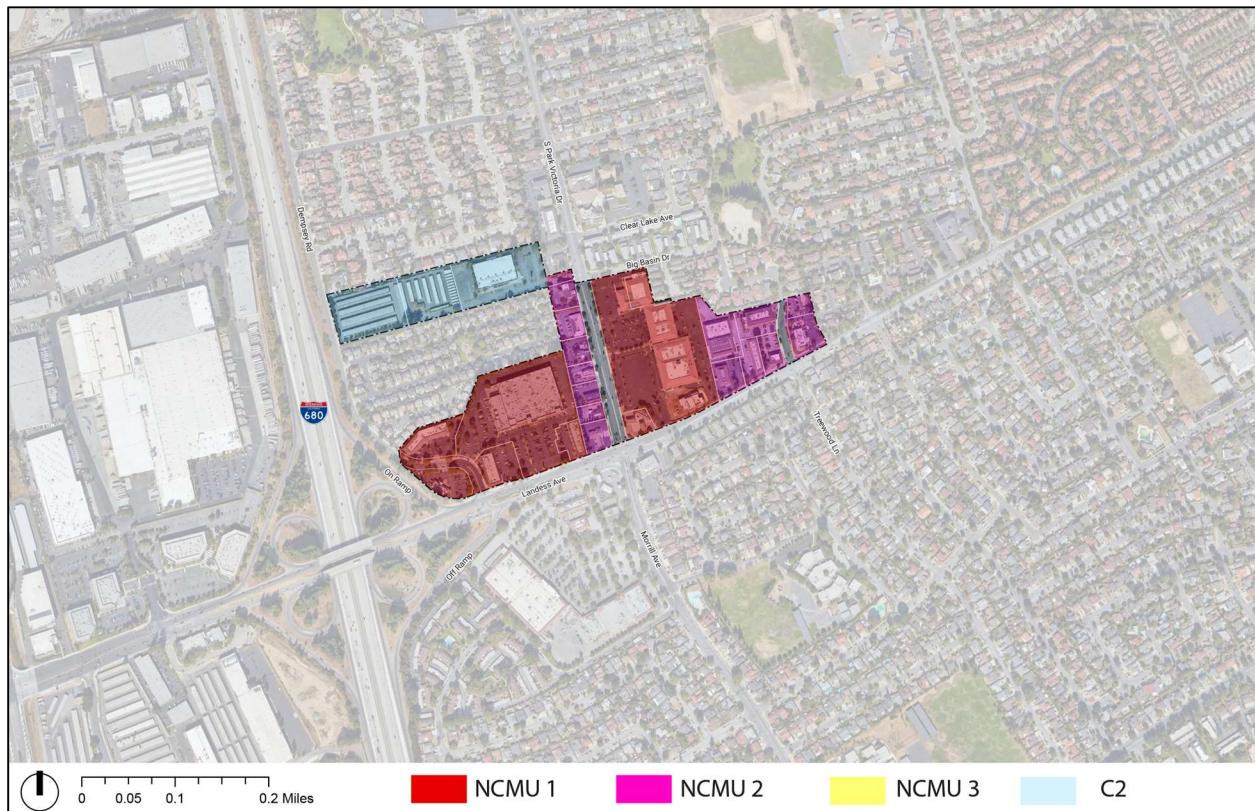
In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas

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.

**Exhibit A: Proposed NCMU Zones at Calaveras Blvd**



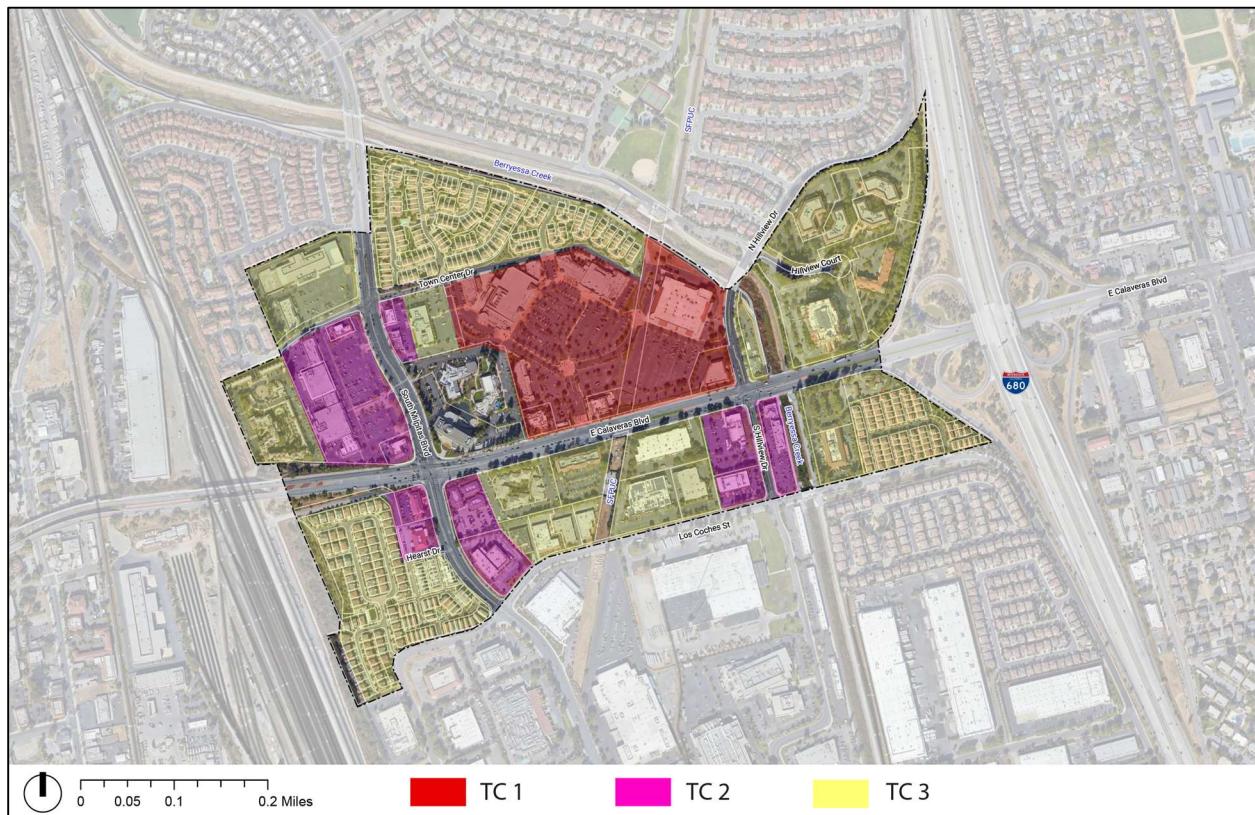
**Exhibit B: Proposed NCMU Zones at Landess Ave**



### **Exhibit C: Proposed NCMU Zones at Dixon Rd**



### **Exhibit D: Proposed TC Zones**



**Exhibit E: Proposed Zoning updates to implement the HODs, NCMU, and TC**

APN	Existing Zoning	Proposed Zoning
8804078	C1	NCMU1
2606030	C	NCMU1
8835011	C2	NCMU1
2606010	C	NCMU1
2913039	C2	NCMU1
8835017	C2	NCMU1
8835018	C1	NCMU1
8836010	C2	NCMU1
2913041	C2	NCMU1
8836044	C2	NCMU1
8835015	C1	NCMU1
2606001	C1	NCMU1
8835016	C2	NCMU1
2606011	C	NCMU1
2606029	C	NCMU1
8836045	C2	NCMU1
8836002	CSS	NCMU2
8843043	C2	NCMU2
2913014	COS	NCMU2
8804010	C1	NCMU2
8804065	C1	NCMU2
8836040	CSS	NCMU2
8836041	CSS	NCMU2
8836025	CSS	NCMU2
8804075	C15	NCMU2
2605023	C1S	NCMU2
8804043	AS	NCMU2
2913013	C1H	NCMU2
2202050	S	NCMU2
8843031	C2S	NCMU2
8843002	C2	NCMU2
8843026	C2	NCMU2
2202049	S	NCMU2
2201004	HSS	NCMU2
8843028	C2	NCMU2
8836030	CSS	NCMU2
8843027	C2	NCMU2
8836036	CSS	NCMU2

8836035	CSS	NCMU2
8804048	C1S	NCMU2
8843025	C2	NCMU2
2605024	MXD-S	NCMU2
8804077	R1	NCMU3
8804076	C1	NCMU3
2605019	C1S	NCMU3
2605021	C1S	NCMU3
2605018	C1S	NCMU3
2605020	C1S	NCMU3
8804072	C	NCMU3
2201011	HS	NCMU3
8804060	C1	NCMU3
8804001	C1S	NCMU3
8804056	C1S	NCMU3
8804073	C	NCMU3
2201003	HSS	NCMU3
2605053	C1S	NCMU3
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2812013	TC	TC1
2812014	TC	TC1
2812016	TC	TC1
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8628032	TC	TC1
8628052	TC	TC1
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