

**MILPITAS PLANNING COMMISSION
STAFF REPORT****April 24, 2024**

APPLICATION:	Housing Opportunity Districts (HODs), Addendum to the Milpitas General Plan 2040 EIR, General Plan Text Amendment, and Zoning Text and Map Amendments: Review and discuss the Final Housing Opportunity Districts (HODs) and Addendum to the Milpitas General Plan 2040 EIR (SCH#: 2020070348) and provide a recommendation for approval to the Milpitas City Council. The HODs project scope includes: 1) a General Plan amendment (GP24-0001) to update the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions; and 2) 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). These changes aim to increase housing supply, implement General Plan policies, and revitalize commercial centers while incentivizing affordable housing.
RECOMMENDATION:	Staff recommends that the Planning Commission conduct a public hearing and adopt resolution No. 24-015, recommending that the City Council: 1) approve General Plan Amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions; 2) approve Zoning 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 Districts Addendum to the Milpitas General Plan 2040 FEIR (SCH #2020070348).
PROJECT LOCATION:	The NCMU zoning districts cover approximately 140 acres, and the TWC zoning districts cover approximately 133 acres within the City of Milpitas.
PROJECT CONSULTANTS:	Raimi + Associates
PROJECT STAFF:	Jay Lee, Planning Director Avery Stark, Acting Senior Planner
ENVIRONMENTAL REVIEW:	An Addendum to the Milpitas General Plan Update Final EIR (FEIR) (March 2021, SCH #2020070348) has been prepared pursuant to California Environmental Quality Act (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 (FEIR).

BACKGROUND

Since 1969, California law has required all cities and counties to plan to meet housing goals for residents at all income levels. Every eight years, the California Department of Housing and Community Development (HCD) and the Association of Bay Area Governments (ABAG) distribute the Regional Housing Needs Allocation (RHNA) to each City and County in the Bay Area. The City is then required to perform a comprehensive update to the Housing Element, which is a chapter in the General Plan. The Housing Element identifies specific programs and policies that the City commits to implement to help realize the City's RHNA goals and respond to related needs. When the City on March 9, 2021, adopted its most recent General Plan, one aspect of its overall development plan and efforts to meet expanding housing needs was the expansion of multifamily residential opportunities in an around commercial space and aging centers to encourage and support commercial redevelopment and economic activity in these areas. When the City on January 24, 2023, adopted its most recent Housing Element, that plan identified the opportunity and ability for greater residential growth in several areas of the City, including the Town Center (TWC) and Neighborhood Commercial Mixed Use (NCMU) zones and proposed additional planning and study to fulfill this opportunity and need.

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.

On June 29, 2020, the City of Milpitas applied for LEAP funding to establish Housing Opportunity Districts (HOD) in priority areas outlined in its General Plan. The HODs are designed to incentivize housing by allowing increased density, relaxing standards, and streamlining permitting processes to facilitate housing, especially affordable housing production. On September 2, 2020, HCD informed staff that the City of Milpitas has been awarded \$300,000 in grant funds through the LEAP Program to establish HODs.

On December 12, 2021, the City Council approved and authorized the City Manager to execute a professional services agreement with Raimi and Associates to prepare the HODs in close coordination with related efforts underway, including the Metro and Gateway Specific Plans, the Housing Element Update, and a separate Assessment of Fair Housing. Per the grant agreement, the HODs must be completed by June 30, 2024.

The Housing Opportunity Districts (HOD) project plays a critical role in implementing both the General Plan and the Housing Element to increase housing in the city while creating vibrant mixed-use neighborhoods.

Work Completed

- **Best Practices Memo:** The memo provides an overview of example HODs from other cities, especially as they relate to the creation of affordable housing units and housing for special needs populations. Three of the examples focus on affordable housing and one on

senior housing. Each precedent study identifies strengths and weaknesses that can inform the consideration and development of new HODs in Milpitas.

- **Planning Documents and Process Assessment:** The assessment memo reviews and summarizes existing planning documents and ordinances that impact the development of housing across the City and identifies strengths that can be enhanced and weaknesses that can be overcome through HODs.
- **Existing Conditions Analysis:** The analysis of existing conditions examines each potential HOD area and estimates the feasible development capacity based on Milpitas' current land use and zoning policies and regulations. Topics covered include the existing land use pattern, parcel size, pipeline projects, access to multimodal transportation options, site constraints, and opportunity sites. Staff will present the analysis in greater detail at a future study session with the City Council.
- **Stakeholder Meetings:** Raimi and Associates and City staff presented an overview of HODs at the
- May 2022 Community Development Roundtable and subsequently conducted stakeholder interviews with non-profit and for-profit housing developers to better understand the constraints to building both mixed-income and 100 percent affordable housing projects.
- **1st City Council Progress Report:** On August 9, 2022, the Milpitas City Council received a progress report on the work completed and existing conditions analysis from Raimi and Associates and staff on the housing opportunity districts, discussed project objectives and priorities, and provided direction on key planning concepts and land use strategies.
- **Video presentation and survey:** Recognizing the technical nature and limited geographic scope of the project, the team produced a series of informative videos outlining the project's intricacies and presenting draft recommendations. The videos were published on the city website and were followed by an open-ended survey asking the viewers to give feedback on the draft recommended standards for the NCMU and TC areas.
- **Pop-up Stations:** The City hosted four dedicated pop-up events, one at each location, which allowed City staff an opportunity to explain the project in person. Visitors, business owners, and property owners were directed to watch the informative videos and take part in the survey to provide feedback.
- **2nd City Council Progress Report:** On October 17, 2023, the Milpitas City Council received a progress report on the HODs from Raimi and Associates and staff provided feedback on the preferred alternative.
- **Draft HOD Project and CEQA:** The consultant prepared an internal Administrative Draft of the HODs for staff review and initiated the environmental review process per the California Environmental Quality Act (CEQA). The environmental review conducted by Rincon Consultants, Inc., established an Addendum to the Milpitas General Plan 2040 EIR State Clearinghouse #2020070348.

Project Goals

The HOD project was initiated to increase the housing supply in the City of Milpitas while simultaneously reducing barriers associated with new housing construction. The overarching goals of the HOD project include:

Implementing General Plan policies

The HOD is intended to implement several General Plan policies identified through an extensive public input process.

Meeting current and future regional housing needs (RHNA)

The City fell short in meeting its very low-, low-, and moderate-income regional housing targets over the implementation phase of the previous Housing Element and needs to plan for more housing, especially affordable housing, to overcome its housing shortfall.

Incentivizing affordable housing

Another goal is to incentivize affordable and special needs housing in the city. By creating tailored zoning regulations, these zones will help facilitate the production of all housing types. Moreover, 100 percent affordable housing projects in NCMU and TWC are exempt from non-residential requirements.

Revitalizing aging shopping centers

Many existing commercial centers are underperforming, and their redevelopment as mixed-use projects can revitalize public spaces while adding to the city's tax base.

ANALYSIS

Project Summary

The HOD project introduces a comprehensive General Plan amendment and zoning update within the Neighborhood Commercial Mixed-Use (NCMU) and the Town Center (TC) areas of the City to allow for horizontal and vertical mix of uses, enhancing the viability of mixed-use projects.

Based on the analysis completed for this HOD project, the proposed zoning adopts a place-based and flexible approach. It establishes three distinct NCMU zones (NCMU1, NCMU2, and NCMU3) and three TC zones (TC1, TC2, and TC3). These zones consider parcel size, location, current use, and future potential. Each zone permits increased residential density and a reduced minimum non-residential floor area ratio (FAR), promoting versatility in development. Concurrently, the project outlines General Plan amendments to update the definitions associated with these land use designations.

The proposed NCMU Zones are:

1. NCMU1: includes big box retail and grocery stores with large surface parking lots. Parcels designated NCMU1 require a minimum 0.25 FAR of non-residential use for mixed-use developments.
2. NCMU2: includes smaller parcels with commercial uses along streets, which are ideal for mixed-use development. Parcels designated NCMU2 require a minimum of 0.1 FAR of commercial use, primarily on the ground floor with residential units above.
3. NCMU3: includes parcels that are less suitable for commercial use, such as those located on secondary streets,

Figure 1: TC Zone locations

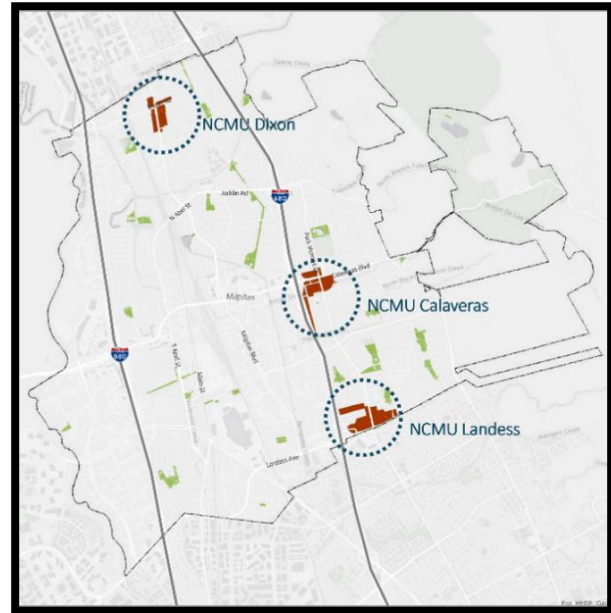


lacking street frontages, or adjacent to residential zones. NCMU3 would allow commercial, mixed-use, or residential-only development with no minimum commercial requirement.

The proposed TC Zones are:

1. TC1: includes some successful big box retail centers with long-term leases with large surface parking lots. Parcels designated TC1 require a minimum 0.35 FAR of non-residential use for mixed-use developments.
2. TC2: includes smaller parcels with commercial uses along streets, which are ideal for mixed-use development. Parcels designated TC2 require a minimum of 0.1 FAR of commercial use, primarily on the ground floor with residential units above.
3. TC3: includes parcels that are less suitable for commercial use, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones. TC3 would allow commercial, mixed-use, or residential-only development with no minimum commercial requirement.

Figure 2: NCMU Zone locations



Furthermore, the HOD recommends a reduction in parking and open space requirements, aiming to enhance project feasibility. These proposed adjustments align with the overarching goals of the General Plan, specifically focusing on revitalizing aging shopping centers and fostering the creation of dynamic mixed-use neighborhoods.

Other Development Standards

Parking

Parking standards in Milpitas are generally high, except in Specific Plan areas. Accommodating a greater number of parking spaces would require substantial surface area or large structured parking garages, consequently increasing the cost of the project. Thus, to enhance the feasibility of housing development in the NCMU and TC zones, the HOD proposes a reduction in the residential parking requirement.

Lower parking ratios will apply to areas designated NCMU and TC. For projects located in NCMU and TC:

- The minimum number of parking spaces required for residential uses shall be 1 space per unit.
- The minimum number of parking spaces required for commercial use shall be 1 space per 300 square feet of commercial use.

These standards are set at levels that provide adequate parking for the contemplated uses while

allowing the higher density of development these zones are designed to accommodate.

Parks and Open Space

To allow housing or mixed-use developments in the NCMU and TC zones, the HODs propose a reduction in the park land requirement compared to the citywide standard. Nevertheless, considering heightened population densities, it is crucial to emphasize the significance of high-quality open spaces in contributing to placemaking for both existing and future residents. A minimum of 25 percent of the total site shall be usable open space or recreational facilities. This goes above and beyond the existing 5 or 10 percent Objective Design Standard requirements the City has generally adopted to promote a variety of vibrant, publicly or private accessible spaces that encourage gathering and other active uses.

For projects located in the NCMU and TC zones, the following standards shall apply.

- **Park Land.** All residential projects in the NCMU and TC areas shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population. This is a reduction from the citywide requirement of five (5) acres per one thousand (1,000) population.
- **Publicly Accessible Parks and Open Spaces.** All mixed-use or residential-only projects on sites between 3 acres and 5 acres shall dedicate 5 percent 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 percent of total site area to publicly accessible parks and open space. Publicly accessible parks and open spaces provided to meet the requirement below may be counted towards the park land requirement above.
- **Usable Open Space.** A minimum of 25 percent 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.

General Plan Implementation

The HODs will be a critical implementation tool of the 2040 General Plan, which identifies several opportunity areas throughout the City for future housing development. These areas include the two Specific Plan areas (Metro Specific Plan and Gateway-Main St. Specific Plan), four NCMU areas, and the Town Center. The City adopted its updated Metro Specific Plan on February 7, 2023 and is currently updating its Gateway-Main St. Specific Plan. The HODs will apply to three NCMU areas (as shown in Figure 2: NCMU Zone Locations) and the Town Center where much of the future housing development is expected to occur. However, the current policies and requirements of the NCMU and TWC land use designations need to be refined to facilitate and incentivize mixed-use redevelopment that is needed in these areas and increase local commercial activity.

The NCMU land use designation establishes a ratio of one residential dwelling unit per 1,500 square feet of neighborhood-serving retail and commercial services for new mixed-use developments. While this requirement is intended to incentivize the redevelopment of older strip retail centers into new mixed-use projects, redevelopment is unlikely to occur under the current policy framework. Based on the analysis completed for this HOD project, the consultant team and staff now favor a clear allowable density range rather than a ratio between residential and nonresidential floor area. In the NCMU areas, the HODs propose a maximum residential density of 65 dwelling units per acre and a minimum commercial floor are ratio (FAR) of 0.10 or 0.25 depending on the parcel. 100 percent residential projects are allowed in certain areas adjacent to

existing residential neighborhoods.

The TWC land use designation allows 40 residential dwelling units per acre for mixed-use developments but requires a high FAR of 0.35 for nonresidential uses. While the purpose of the nonresidential FAR requirement is to ensure that the Town Center retains its commercial activity over time, it presents a constraint to redevelopment. The current FAR of the Town Center north of Calaveras Boulevard is well below 0.35 and any redevelopment would require an additional 323,000 square feet of nonresidential floor area, which is highly unlikely in the current economic climate. In the TWC area, the HODs propose a maximum residential density of 55 units per acre and a reduced minimum commercial FAR of 0.10 in areas ripe for redevelopment. Like the NCMU designation, 100 percent residential projects are allowed in certain areas adjacent to existing residential neighborhoods.

The HODs will build upon new General Plan policies for the NCMU and TWC areas by providing a more implementable strategy to achieve the overall goal of creating vibrant mixed-use neighborhoods in key areas throughout the City. The HODs will adopt a place-based approach to facilitate mixed-use redevelopment of specific sites within these areas while allowing viable commercial centers to remain.

Relevant General Plan goals and policies related to NCMU and TWC include:

- *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.*
- *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.*
- *Policy LU 6-4 Maintain viable neighborhood-serving commercial uses throughout the City in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.*
- *Policy LU 6-5 Promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers.*
- *Policy LU 6-6 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 HOD project reexamines these land use designations and proposes a General Plan amendment to align them with the evolving needs and goals of the community.

Housing Element Implementation

In January 2023, the City of Milpitas approved its 6th Housing Element, which outlines programs

and actions the City will undertake to fulfill its regional housing growth obligations (RHNA). In the current RHNA cycle (2023-2031), the City of Milpitas has been allocated 6,713 units, more than double the allocation from the previous cycle. Furthermore, 3,786 of the units must be affordable (i.e., below market rate), with 2,655 of those units at the low- or very-low-income affordability level, which the City has historically struggled to provide.

To address this challenge, the HODs will focus on providing practical and effective incentives for developers to build affordable housing, especially at deeper affordability levels. The Housing Element Update will rely on the HODs as a key program to implement its policies and help the City fulfill its housing goals and needs.

Relevant Housing Element goals and policies related to NCMU and TWC include:

- *Goal HE-3: Continually assess the barriers to new housing production and proactively mitigate the governmental constraints to new housing development.*
- *Policy HE 3.3: Implement recommendations in the Housing Opportunity Zone (HOZ) study to reduce barriers to new affordable housing production while balancing the need for convenient neighborhood-serving retail stores and services for existing and future residents.*
- *Policy HE 3.7: Support the adaptive reuse, renovation, conversion, or redevelopment of economically underutilized properties or buildings for residential or mixed-use development.*

The Housing Element identified the existing General Plan definitions of NCMU and TWC as restrictive and potential barriers to new housing development. The NCMU designation also falls short of the minimum density threshold deemed effective for contributing to low-income housing, as stipulated by the Housing and Community Development (HCD) department guidelines to accommodate RHNA in the Housing Element. To overcome this constraint, the Housing Element identified an action to establish HODs with higher residential densities, flexible commercial and development requirements, and incentives for affordable housing.

Fiscal Impact

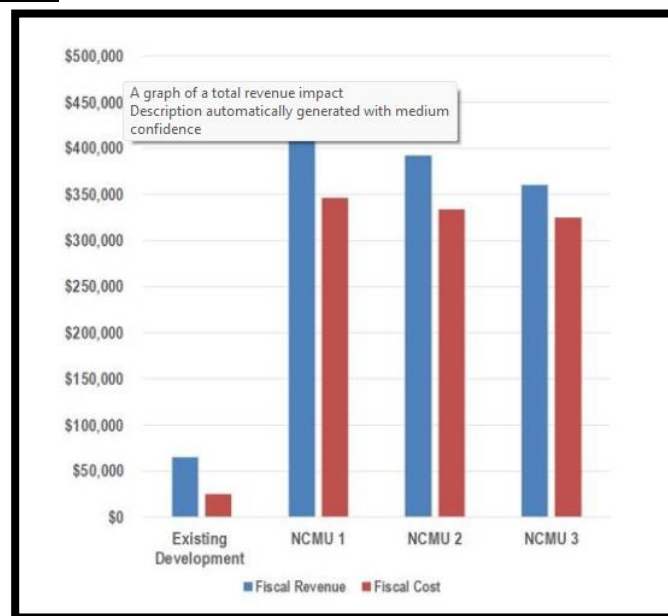
The City retained Seifel Consulting to perform a fiscal analysis regarding proposed land use changes that would allow additional residential development to occur within the TC and NCMU zones. This analysis investigates the contribution of NCMU and TC areas to the overall sales tax revenues in the City, assessing the potential impact of the zoning updates on the City's sales tax revenue. Additionally, the study analyzes a prototypical redeveloped site within the NCMU, evaluating the cost-to-revenue ratio in various NCMU scenarios to provide insights into the financial implications of such redevelopment.

The potential fiscal impact was analyzed by evaluating alternative development scenarios for a typical property in the NCMU zone because several properties within this area are currently underutilized and have vacant commercial space. The fiscal analysis evaluated what could occur if a typical property were to be redeveloped to include housing.

The key findings of the analysis are below:

- If no zoning changes are made, no redevelopment is likely as the current General Plan commercial to residential ratios are infeasible.
- Even with the implementation of a place-based strategy, which maintains a robust minimum commercial floor area requirement for much of the HODs, only small portions of the HODs are likely to redevelop in the near future.
- Projected total General Fund revenues from new development is anticipated to exceed the total fiscal costs of providing services to future residents and employees for each of the development scenarios. This analysis indicates that new infill mixed-use and residential development is likely to have a positive fiscal impact on the City of Milpitas.

Figure 3: Potential Fiscal Impact from Typical HOD Development opportunity in FY 2022/23 Constant Dollars



FINDINGS FOR APPROVAL (OR DENIAL)

In making a recommendation to the City Council regarding the adoption of the HODs, the Planning Commission should make findings to support its recommendations.

General Plan Amendments (Milpitas Municipal Code Section XI-10-57.02(G) (1) (a), (b))

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

The proposed General Plan Text Amendment is found to be internally consistent with those portions of the General Plan which are not being amended. The amendment does not introduce any conflicts or inconsistencies with the existing goals, policies, or programs of the General Plan. Instead, it builds 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.

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

The proposed General Plan Text Amendment is found to be consistent with the overall planning objectives and goals of the City of Milpitas. 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. The amendment is to enable the City to modify its current Mixed Use Designations to prioritize the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalizing some of the older neighborhood-serving commercial land uses that support citywide community goals outlined in the Milpitas 2040 General Plan, 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. 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.

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

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

The proposed text amendments are consistent with the General Plan Policy LU 6-6 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 establishes 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. Policy LU 6-5 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 City's consultants, the Project and 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.

ENVIRONMENTAL REVIEW

The Milpitas City Council certified an Environmental Impact report (SCH #2020070348) for the General Plan Update in 2021. The EIR addressed the potential environmental effects of the planned buildout of Milpitas through the year 2040 and concluded that implementation of the General Plan would result in various levels of environmental impacts. Mitigation measures were incorporated into the EIR to reduce potential impacts from development under the General Plan.

An Addendum to the Milpitas General Plan Update Final EIR (FEIR) (March 2021, SCH #2020070348) has been 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 Final EIR (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 Update Final EIR (FEIR), do not require subsequent action under CEQA Guidelines Section 15162, and adequately analyze potential environmental impacts in conjunction with the FEIR.

PUBLIC COMMENT/OUTREACH

The consultant team performed outreach during various phases of the HOD project. The consultant team with support from City staff focused outreach efforts citywide and locally around each of the NCMU and TC planning areas. The community engagement was conducted in two distinct phases. Initially, at the project's outset, efforts were focused on creating awareness about the project through factsheets and conducting stakeholder interviews to gain insights into challenges related to housing construction. Subsequently, during the second half, the team produced informational videos to present the draft NCMU and TC zone recommendations to the community and facilitated focus group discussions with stakeholders. The valuable inputs gathered during these engagements were incorporated into the final draft of the zoning standards. A notice of this hearing was published in the Milpitas Post on April 12, 2024, and posted at City Hall and on the City's website at www.milpitas.gov. At the time of writing this report, no comments have been received regarding the proposed Housing Opportunity District.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution No. 24-015, recommending that the City Council: 1) approve general plan text amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions; 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).

ATTACHMENTS:

A: Planning Commission Resolution No. 24-015, attached Exhibit A (General Plan Amendment - City Council Resolution No. XX-XXX) & Exhibit B (Zoning Map and Text Amendment - Ordinance No. XX-XXX)

B: Housing Opportunities District Memorandum

C: CEQA Addendum to the Milpitas General Plan Update Final EIR (FEIR) (SCH #2020070348)

E: Redline track changes to Sec.6 Mixed Use Zones and Standards TC NCMU and GP Designation.

RESOLUTION NO. 24-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THAT THE CITY COUNCIL: 1) APPROVE GENERAL PLAN TEXT AMENDMENT NO. GP24-0001 TO CHANGE THE DESCRIPTION OF THE TOWN CENTER (TWC) AND NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU) DESCRIPTIONS; 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).

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 craft the HODs by June 2024, in tandem with other ongoing planning initiatives; 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, 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, 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 Amendment (“Amendment”) to the City’s General Plan implementing the HODs (General Plan 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 April 24, 2024, the City of Milpitas Planning Commission held a duly noticed public hearing on the General Plan 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

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, 2023) 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.

The Planning Commission has been provided the Addendum to the Milpitas General Plan

2040 EIR (SCH#: 2020070348) 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 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 3. General Plan 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 Text Amendment is found to be internally consistent with those portions of the General Plan which are not being amended. The amendment does not introduce any conflicts or inconsistencies with the existing goals, policies, or programs of the General Plan. Instead, it builds 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.

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

The proposed General Plan Text Amendment is found to be consistent with the overall planning objectives and goals of the City of Milpitas. 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. The amendment is to enable the City to modify its current Mixed Use Designations to prioritize the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalizing some of the older neighborhood-serving commercial land uses that support citywide community goals outlined in the Milpitas 2040 General Plan, 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. 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 the General Plan Policy LU 6-6 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 establishes 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. Policy LU 6-5 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 City's consultants, the Project and 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. 24-015 recommending that the City Council: 1) approve general plan text amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions 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).

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 24, 2024.

Mercedes Albana, 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 April 24, 2024, 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 “A” General Plan Amendment City Council Resolution No. XX-XXX

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

City of Milpitas

Housing Opportunity Districts

General Plan Amendment and Proposed Zoning Changes
to NCMU and TC



Introduction

About the Project

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.

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. Securing a \$300,000 LEAP grant, the city subsequently engaged Raimi and Associates through a professional services agreement to craft the HODs by June 2024, in tandem with other ongoing planning initiatives.

The Housing Opportunity Districts (HOD) project plays a critical role in implementing both the General Plan and the Housing Element to increase housing in the city while creating vibrant mixed-use neighborhoods.

Purpose of this Memorandum

This Memorandum presents the proposed General Plan amendment and zoning standards that implement the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) designations. It is intended for review and approval by City staff, the Planning Commission, and the City Council.

The document outlines the project goals, the process employed to update the TC zone, create new NCMU zones along with the amendment to their General Plan definitions, and the final zoning and development standards recommended for incorporation in the citywide zoning code update initiated in 2023.

The recommended zoning and development standards are the result of extensive technical, financial, and modeling analyses, complemented by input from the community, relevant stakeholders, and city staff gathered over the past two years. Additionally, the Memorandum includes the detailed zoning and development standards in Appendix A and 3D renderings in Appendix B.

Project Goals

The HOD project was initiated with the primary objective of increasing the housing supply in the City of Milpitas while simultaneously reducing barriers associated with new housing construction. The overarching goals of the HOD project include:

- **Implementing General Plan policies**
The HOD is intended to implement several General Plan policies identified through an extensive public input process.
- **Meeting current and future regional housing needs (RHNA)**

The city fell short in meeting its very low-, low-, and moderate- income regional housing targets over the implementation phase of the previous Housing Element and needs to plan for more housing, especially affordable housing, to overcome its housing shortfall.

- **Incentivizing affordable housing**

Another goal is to incentivize affordable and special needs housing in the city. By creating tailored zoning regulations, these zones will help facilitate the production of all housing types. 100% affordable housing projects in NCMU and TWC are exempt from non-residential requirements.

- **Revitalizing aging shopping centers**

Many existing commercial centers are underperforming, and their redevelopment as mixed-use projects can revitalize public spaces while adding to the city's tax base.

Project Summary

The HOD project introduces a comprehensive General Plan amendment and zoning update within the Neighborhood Commercial Mixed-Use (NCMU) and the Town Center (TC) areas of the City that allow for both horizontal and vertical mix of uses, enhancing the viability of mixed-use projects.

Based on the analysis completed for this HOD project, the proposed zoning adopts a place-based and flexible approach. It establishes 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. Concurrently, the project outlines General Plan amendments to update the definitions associated with these land use designations.

The proposed NCMU Zones are:

1. NCMU1: includes big box retail and grocery stores with large surface parking lots. Parcels designated NCMU1 require a minimum 0.25 FAR of non-residential use for mixed-use developments.
2. NCMU2: includes smaller parcels with commercial uses along streets, which are ideal for mixed-use development. Parcels designated NCMU2 require a minimum of 0.1 FAR of commercial use, primarily on the ground floor with residential units above.
3. 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. NCMU3 would allow commercial, mixed-use, or residential-only development with no minimum commercial requirement.

The proposed TC Zones are:

1. TC1: includes some successful big box retail centers with long-term leases with large surface parking lots. Parcels designated TC1 require a minimum 0.35 FAR of non-residential use for mixed-use developments.
2. TC2: includes smaller parcels with commercial uses along streets, which are ideal for mixed-use development. Parcels designated TC2 require a minimum of 0.1 FAR of commercial use, primarily on the ground floor with residential units above.

3. TC3: includes parcels that are less suitable for commercial use, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones. TC3 would allow commercial, mixed-use, or residential-only development with no minimum commercial requirement.

Furthermore, the HOD recommends a reduction in parking and open space requirements, aiming to enhance project feasibility. These proposed adjustments align with the overarching goals of the General Plan, specifically focusing on revitalizing aging shopping centers and fostering the creation of dynamic mixed-use neighborhoods.

Plan and Policy Overview

Milpitas General Plan 2040

The City of Milpitas adopted its General Plan 2040 in March 2021, outlining goals and policies to shape the future development of the city. The General Plan prioritizes the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalizing some of the older neighborhood-serving commercial land use designations such as the NCMU and TWC.

Relevant General Plan goals and policies related to NCMU and TWC include:

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.

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.

Policy LU 6-1 Ensure new development in Neighborhood Commercial Mixed Use (NCMU) areas includes adequate commercial components to retain commercial uses as the dominant use type, and that the redevelopment of aging centers results in no net loss of viable commercial space. The City Council may consider opportunities to waive commercial requirements in mixed use areas for 100% affordable projects that increase the affordable housing stock within Milpitas for “very low income” and “low income” categories.

Policy LU 6-4 Maintain viable neighborhood-serving commercial uses throughout the City in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.

Policy LU 6-5 Promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers.

Policy LU 6-6 Encourage redevelopment and intensification of mixed-use areas by allowing stand-alone 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.

While the General Plan designates the NCMU and TWC areas as mixed-use, the restrictive relationship between the non-residential and residential densities makes redevelopment in these areas unlikely to be feasible in practice. This limitation necessitates a critical review of the General Plan's definitions. The

HOD project reexamines these definitions and proposes a General Plan amendment to align them with the evolving needs and goals of the community.

Milpitas Housing Element 2023-2031

In January 2023, the City of Milpitas approved its 6th Housing Element, which outlines programs and actions the City will undertake to fulfill its regional housing growth obligations (RHNA). In the current RHNA cycle (2023-2031), the City of Milpitas has been allocated 6,713 units, which is more than double the allocation from the previous cycle. Furthermore, 3,786 of the units must be affordable (i.e., below market rate) with 2,655 of those units at the low- or very-low-income affordability level, which the City has historically struggled to provide.

Relevant Housing Element goals and policies related to NCMU and TWC include:

Goal HE-3: Continually assess the barriers to new housing production and proactively mitigate the governmental constraints to new housing development.

Policy HE 3.3: Implement recommendations in the Housing Opportunity Zone (HOZ) study to reduce barriers to new affordable housing production, while balancing the need for convenient neighborhood-serving retail stores and services for existing and future residents.

Policy HE 3.7: Support the adaptive reuse, renovation, conversion, or redevelopment of economically underutilized properties or buildings for residential or mixed-use development.

The Housing Element identified the existing General Plan definitions of NCMU and TWC as restrictive and as potential barriers to new housing development. The NCMU designation also falls short of the minimum density threshold deemed effective for contributing to low-income housing, as stipulated by the Housing and Community Development (HCD) department guidelines to accommodate RHNA in the Housing Element. To overcome this constraint, the Housing Element identified an action to establish Housing Opportunity Districts with higher residential densities, flexible commercial and development requirements, and incentives for affordable housing.

Comprehensive Zoning Code Update

In order to implement the General Plan, the city must update its zoning to ensure consistency with the land use designations.

In 2023, the City of Milpitas launched a separate effort to comprehensively update the Zoning Ordinance. This Zoning update will not only implement the changes in the General Plan but also ensure compliance with recent state laws aimed at fostering the production and preservation of housing throughout California. The new NCMU and updated TC zoning and development standards will be adopted separately, and later integrated with the citywide zoning code update.

Other Relevant Documents

The City of Milpitas adopted the Metro Specific Plan in March 2023 and is currently preparing an update to the Gateway/Main St. Specific Plan. These Specific Plans allow higher residential densities and a mix of commercial uses to create complete neighborhoods near transit stops. The City also approved its Objective Design Standards (ODS) in December 2022 which apply to all new residential and mixed-use developments in the City of Milpitas including projects in the NCMU and TC zones.

Community Engagement and Outreach

The consultant team performed outreach during various phases of the HOD project. The team with support from City staff focused outreach efforts citywide and locally around each of the NCMU and TC planning areas. The community engagement was conducted in two distinct phases: initially, at the project's outset, efforts were focused on creating awareness about the project through factsheets and conducting stakeholder interviews to gain insights into challenges related to housing construction. Subsequently, during the second half, the team produced informational videos to present the draft NCMU and TC zone recommendations to the community and facilitated focus group discussions with stakeholders. The valuable inputs gathered during these engagements were incorporated into the final draft of the zoning standards. A concise summary of these engagement efforts is provided below.

Factsheets

The consultant team prepared factsheets for both NCMU and TWC designations, explaining the project goals and what the HOD project aimed to achieve. These factsheets were made publicly accessible on the city website and distributed at various events throughout the city.

Stakeholder Interviews

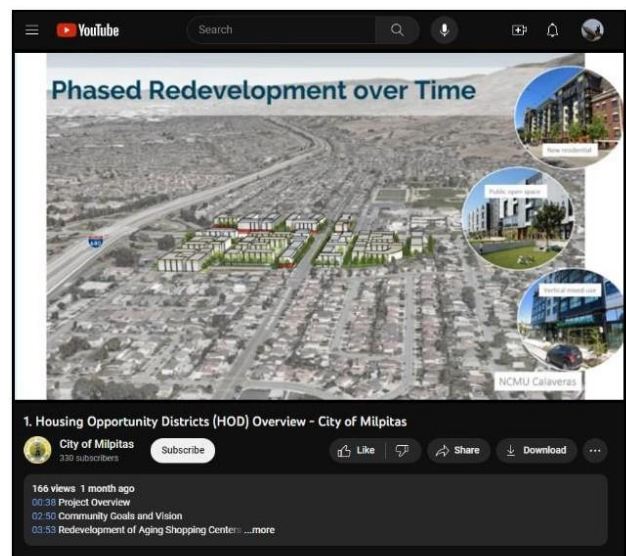
The team conducted stakeholder interviews at two critical junctures in the project. Initially, interviews were focused on understanding the goals and challenges faced by stakeholders in housing development. Subsequently, stakeholders were engaged to present and gather feedback on draft changes to zoning and development standards. This approach extended to participation in the Community Development Roundtable. Engaged stakeholders included market-rate housing developers, affordable housing developers, and property owners.

Video presentation and survey

Recognizing the technical nature and limited geographic scope of the project, the team produced a series of informative videos outlining the project's intricacies and presenting draft recommendations. The videos were published on the city website and were followed by an open-ended survey asking the viewers to give feedback on the draft recommended standards for the NCMU and TC areas. ([link to videos](#))

Pop-up Stations

Four dedicated pop-up events were hosted by the City, one at each location, which allowed City staff an opportunity to explain the project in person. Visitors, business owners, and property owners were directed to watch the informative videos and take part in the survey to provide feedback.



Planning Commission and City Council

The consultant team actively engaged with the City Council in August 2022 and October 2023 to present the analyses and draft recommendations. The project's progress will also be shared with the Planning Commission.

Geographic Context

Neighborhood Commercial Mixed-Use

The Neighborhood Commercial Mixed-Use or NCMU land use designation covers many of the smaller aging shopping centers around the City. The map in Figure 1 identifies three NCMU locations along Dixon Road in the North, Calaveras Blvd in the center, and Landess Ave in the south.

Dixon Road currently hosts a diverse array of establishments, including restaurants, storage facilities, a gas station, the Lion supermarket, and some vacant parcels, along with surface parking. Calaveras Blvd. hosts the Ocean supermarket, Executive Inn hotel, restaurants, a smaller shopping center, vacant parcels, an event center, and surface parking. Meanwhile, Landess Avenue features banks, supermarkets, gas stations, Bowlero, storage facilities, restaurants, and surface parking.

Overall, these areas exhibit a high potential for redevelopment into mixed-use communities with neighborhood-serving retail and amenities to enhance the overall community experience.

Existing uses in NCMU



Figure 1: NCMU and TC areas in the city



Town Center

The Town Center includes the commercial areas north and south of Calaveras Boulevard in the heart of the city. Currently, the Town center hosts multiple supermarkets, smaller shopping centers, restaurants, banks, professional offices, gas stations, cultural amenities, and surface parking lots. While certain well-established commercial entities are unlikely to undergo redevelopment in the near future, there is notable potential for transformation, particularly in the properties located south of Calaveras Blvd. These areas present an opportunity for mixed-use development with additional housing opportunities and neighborhood-serving retail and amenities.

Existing uses in Town Center



Currently, the NCMU and TC areas include shopping centers and small businesses that cater to the everyday needs of the local community. However, some of the buildings are aging and have underutilized commercial spaces. They are generally characterized by large surface parking lots and few vacant parcels. Overall, these areas present opportunities for mixed-use redevelopment.

Implementing HOD Goals and Vision

Vision

The HOD envisions transforming the NCMU and TWC neighborhoods into mixed-use communities that prioritize placemaking which involves creating public spaces, supporting local businesses, improving public health, and providing amenities and housing that align with the community's goals and vision. Accordingly, the proposed zoning and development standards would allow higher residential densities within mixed-use buildings in these zones, while certain parcels will allow residential-only projects with a strong emphasis on affordable housing throughout. Additionally, the redevelopment will be complemented by streetscape and other improvements that are contextual to the local area.

As a result, the city will stand to benefit from increased revenue, heightened demand for retail services and business, additional housing options, and increased availability of amenities for residents.

Figure 2: Conceptual phased redevelopment of NCMU at Calaveras Boulevard



Neighborhood Commercial Mixed Use

The General Plan allows for up to 0.75 FAR of non-residential commercial space which can accommodate a 5-8 story office building. The designation allows for residential mixed-use projects but has a restrictive ratio on the amount of housing that is possible. The maximum density allowed is approximately 21 dwelling units per acre, but it requires that you maximize the non-residential use to get there. This density falls below the threshold (approximately 30 dwelling units per acre) deemed effective for contributing to low-income housing, as stipulated by the California Department for HCD for the Housing Element. This mix of non-residential FAR and residential density is atypical and unlikely to be feasible in practice. The designation also allows 100% affordable residential-only projects but those require approval of the City Council which also may not be consistent with State law.

Moreover, the challenge is compounded by the fact that a 0.75 commercial FAR equates to the potential construction of an 8-story office building, a scenario deemed unlikely and economically unviable within the NCMU areas. The mismatch between the prescribed density and the associated development potential underscores the need for a reassessment and adjustment of the current land use designation to better align with both housing affordability objectives and the practical realities of development in the NCMU zones.

Based on the analysis completed for this HOD project, the proposed zoning utilizes a place-based and flexible approach by establishing three distinct NCMU zones (NCMU1, NCMU2, and NCMU3), based on the parcel size, location, current use, and future potential. Each zone allows a higher residential density along with a reduced minimum non-residential FAR that will help implement the General Plan goal to increase vibrancy and incentivize the redevelopment of aging strip retail centers into new mixed-use projects.

The new NCMU zones would apply to the Dixon Road (Sunny Hills), Calaveras and North Park Neighborhood, and Landess neighborhood commercial areas, which are currently designated NCMU in the 2040 General Plan. Currently, there is no NCMU zone in the Zoning Code. Parcels designated NCMU in the General Plan are currently assigned C1 (Neighborhood Commercial), C2 (General Commercial), or MP (Industrial Park) zones of the Zoning code.

General Plan Amendment

To implement the vision outlined in the HOD, the City must undertake a General Plan amendment to refine the definition of the NCMU land use designation.

Current Definition

Below is the definition for Neighborhood Commercial Mixed Use (NCMU) from the Milpitas General Plan 2040, Page LU-6-

"The Neighborhood Commercial Mixed-Use (NCMU) designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use, and residential uses, hotel, and office development allowed on a limited basis. 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 0.75.

This designation also provides opportunities for vertical or horizontal mixed-use residential development to provide for area vibrancy and to encourage the redevelopment of aging commercial centers by allowing Multifamily dwelling units at a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-

serving retail and commercial services. The City Council may consider the approval of residential-only projects in the NCMU land use designation, provided the project is 100% affordable to the “low” and “very low” income categories, in order to increase the stock of affordable housing in Milpitas.

Projects with a residential component are subject to additional policy direction (Policy LU 6-1) to ensure that NCMU areas continue to primarily serve surrounding neighborhoods with commercial services.”

Proposed Definition (changes are *italicized* and underlined and ~~deleted text shown as strikethrough~~)

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 0.75.

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 multifamily dwelling units up to 65 dwelling units per acre for mixed-use and residential only projects. Redevelopment of larger neighborhood commercial centers shall provide a minimum of 0.25 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. Other parcels do not require any minimum non-residential FAR. The zoning map implements the NCMU zones and their locations.

~~Multifamily dwelling units at a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-serving retail and commercial services. The City Council may consider the approval of residential-only projects in the NCMU land use designation, provided the project is 100% affordable to the “low” and “very low” income categories, in order to increase the stock of affordable housing in Milpitas.~~

~~Projects with a residential component are subject to additional policy direction (Policy LU 6-1) to ensure that NCMU areas continue to primarily serve surrounding neighborhoods with commercial services.~~

Proposed Zoning

To implement the vision outlined in the HOD, the NCMU land use designation will be implemented by three distinct NCMU zones defined below.

NCMU1

Areas designated NCMU1 are currently characterized by big box retail and grocery stores with large surface parking lots. The goal of NCMU1 is to preserve the commercial uses while allowing for mixed-use development. This new zone would require 0.25 minimum non-residential FAR and allow up to 65 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

NCMU2

NCMU2 includes smaller parcels with commercial uses along streets, which are ideal for mixed-use development with commercial establishments on the ground floor and residential units above. This new zone would require 0.10 minimum non-residential FAR and allow up to 65 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

NCMU3

NCMU3 pertains to larger parcels that are unsuitable for commercial use, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones. These sites have been classified as NCMU3 and would allow for residential-only projects, without precluding commercial development. This new zone would require no minimum non-residential FAR and allow up to 65 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

Table 1: Proposed NCMU Zones

	Current Zones	Proposed Zones		
	C1, C2, MP	NCMU1	NCMU2	NCMU3
Non-residential FAR	0.35 (C1) 0.5 (C2 and MP)	0.25 minimum 0.75 maximum	0.10 minimum 0.75 maximum	No minimum 0.75 maximum
Residential Density	n/a	65 du/ac	65 du/ac	65 du/ac
Height	35 feet (C1 and MP) No height maximum (C2)	75 feet or 6 stories	75 feet or 6 stories	75 feet or 6 stories

Figure 3: Proposed NCMU Zones at Calaveras Blvd

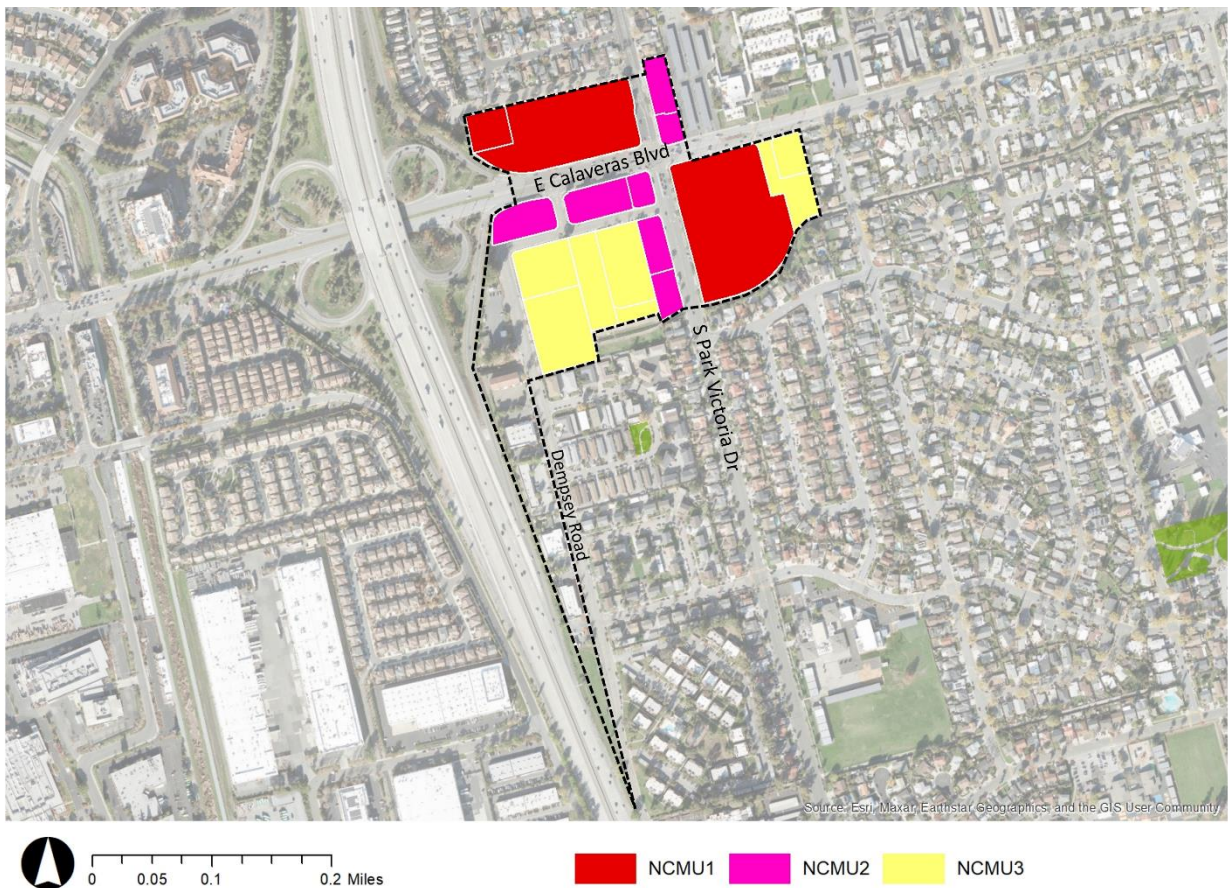


Figure 5: Proposed NCMU Zones at Landess Ave

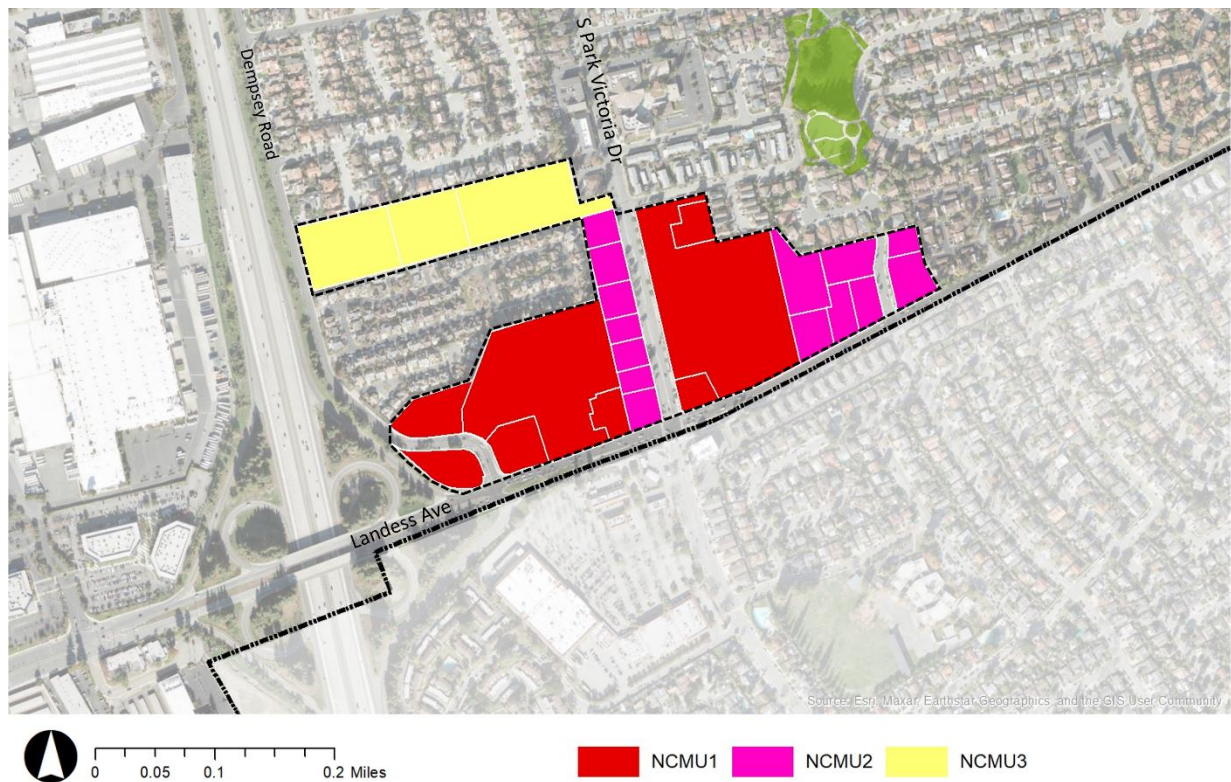
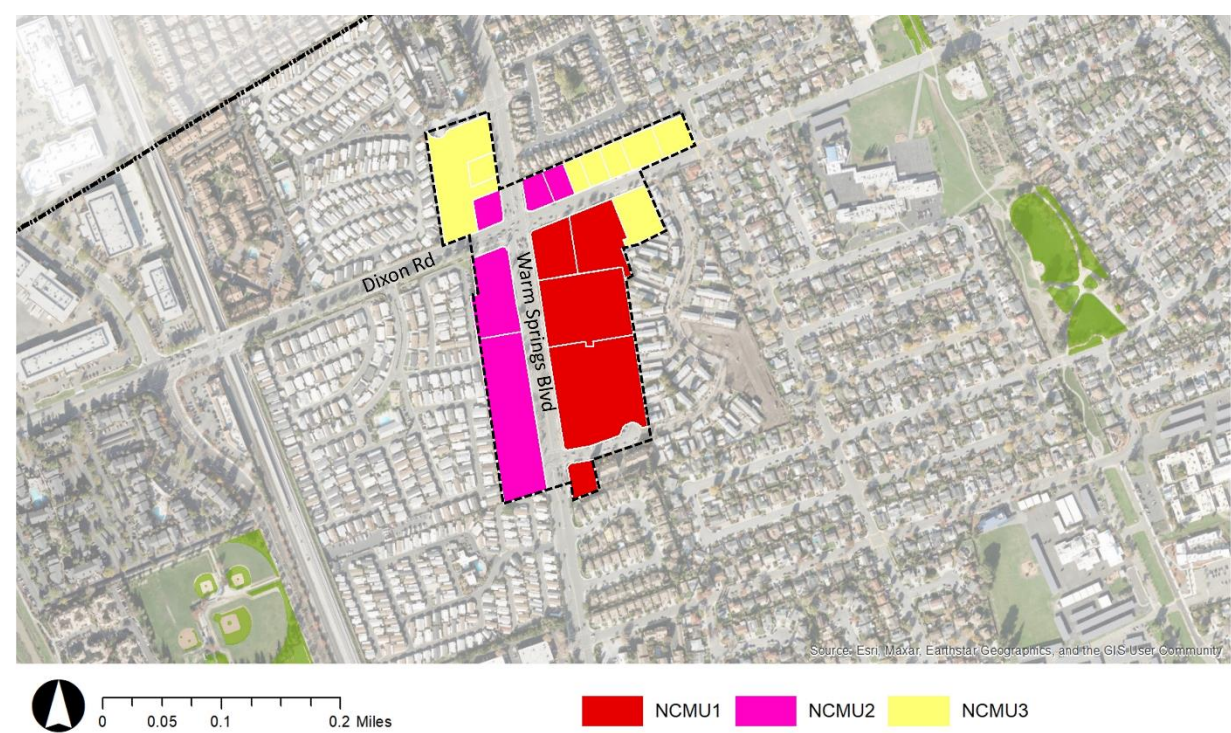


Figure 4: Proposed NCMU Zones at Dixon Rd



Town Center

The TWC designation of the General Plan allows for up to 40 dwelling units per acre and a FAR up to 0.85. Developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component which is higher than what is typically observed in mixed use buildings. Residential only projects are not permitted under any circumstance. The redevelopment potential of underutilized parcels in the TWC underscores the need for a reassessment and adjustment of the current TWC land use designation.

Similar to the NCMU areas, the proposed zoning utilizes a place-based and flexible approach by establishing three distinct Town Center zones (TC1, TC2, and TC3) based on their size, location, current use, and future use. While all Town Center zones would allow for a maximum density of 55 dwelling units per acre and maximum building height of 75 feet or 6 stories, each Town Center zone would provide a different minimum commercial FAR requirement.

Currently, the TWC General Plan designation corresponds to the TC zone in the zoning code. But with the updated General Plan definition, the TC zoning and development standards will be revised for the same geographic area.

General Plan Amendment

To implement the vision outlined in the HOD, the City must undertake a General Plan amendment to revise the TWC land use designation definition.

Current Definition

Below is the definition for Town Center (TWC) from the Milpitas General Plan 2040, Page LU-6-

"This 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 horizontally. Residential-only projects are not permitted. Residential developments up to 40 units per acres may be permitted within the Town Center as part of a mixed-use development project to increase economic support for the commercial uses. Developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component. Sites developed with a mix of uses, or non-residential uses, must adhere to a FAR maximum of up to 0.85."

Proposed Definition (changes are *italicized* and underlined and ~~deleted text shown as strikethrough~~)

The Town Center (TWC) designation provides for a variety of commercial, professional, civic, restaurants, hotels, residential, and entertainment uses in a vertical and horizontal mixed-use neighborhood. Residential developments up to 55 units per acre 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 and a minimum of 0.10 FAR of non-residential ground floor uses is required along major streets. All non-residential development must adhere to a FAR maximum of up to 0.85. The zoning map implements the TC zones and their locations.

~~Projects may consist of a wholly non-residential development, or a mixed-use residential project that integrates residential and nonresidential uses vertically or horizontally. Residential-only projects are not permitted. Developers wanting to maximize the residential component of the parcel are required to~~

~~provide a minimum FAR of 0.35 for the non-residential component. Sites developed with a mix of uses, or non-residential uses, must adhere to a FAR maximum of up to 0.85.~~

Proposed Zoning

To implement the vision outlined in the HOD, the TWC land use designation will be implemented by three distinct TC zones defined below.

TC1

Areas designated TC1 are currently characterized by big box retail and grocery stores with large surface parking lots. The goal of TC1 is to preserve commercial uses while allowing for mixed-use development. These include some successful shopping centers with long-term leases and are unlikely to redevelop anytime soon. This new zone would require 0.35 minimum non-residential FAR and allow up to 55 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

TC2

TC2 includes smaller parcels with commercial uses along the streets, which are ideal for mixed-use development with commercial establishments on the ground floor and residential units above. This new zone would require 0.10 minimum non-residential FAR and allow up to 55 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

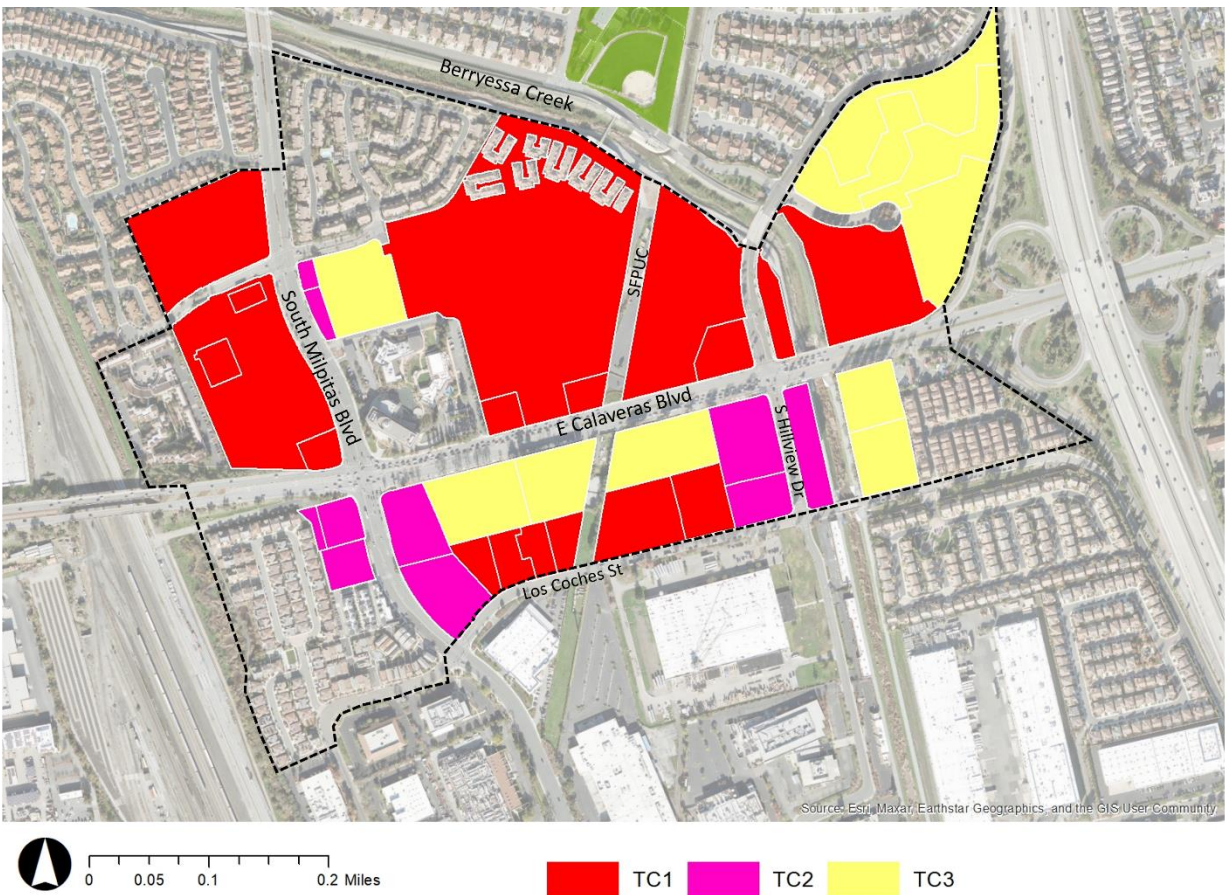
TC3

TC3 pertains to larger parcels that are more suitable for residential-only use, such as those where property owners have expressed interest, are located on secondary streets with minimal street frontage, or are adjacent to existing residential developments. These sites have been classified as TC3 and would allow for residential-only projects, without precluding commercial development. This new zone would require no minimum non-residential FAR and allow up to 55 dwelling units per acre residential density. The proposed height limit is 75 feet or 6 stories.

Table 2: Proposed TC Zones

	Current Zones	Proposed Zones		
	TC	TC1	TC2	TC3
Non-residential FAR	0.85	0.35 minimum 0.85 maximum	0.10 minimum 0.85 maximum	No minimum 0.75 maximum
Residential Density	40 du/ac	55 du/ac	55 du/ac	55 du/ac
Height	35 feet or 3 stories 75 feet or 6 stories with CUP	75 feet or 6 stories	75 feet or 6 stories	75 feet or 6 stories

Figure 6: Proposed TC Zones



Additional Standards

Parking

Parking standards in Milpitas are generally high, except in Specific Plan areas. Accommodating a greater number of parking spaces would require substantial surface area or large structured parking garages, consequently increasing the cost of the project. Thus, to enhance the feasibility of housing development in the NCMU and TC zones, the HOD proposes a reduction in the residential parking requirement.

- Lower parking ratios will apply to areas designated NCMU and TC. For projects located in NCMU and TC
 - The number of parking spaces required for residential uses shall be 1 space per unit.
 - The number of parking spaces required for commercial use shall be 1 space per 300 square feet of commercial use.

Parks and Open Space

To allow housing or mixed-use developments in the NCMU and TC zones, the HOD recommends a reduction in the park land requirement compared to the citywide standard. Nevertheless, considering heightened population densities, it is crucial to emphasize the significance of high-quality open spaces in contributing to placemaking for both existing and future residents.

For projects located in the NCMU and TC zones, the following standards shall apply.

- **Park Land.** All residential projects in the NCMU and TC areas shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population. This is a reduction from the citywide requirement of five (5) acres per one thousand (1,000) population.
- **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 and open spaces provided to meet the requirement below may be counted towards the park land requirement above.
- **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.

Conclusion

This place-based and practical land-use approach to the NCMU areas and Town Center would allow for mixed-use redevelopment and more market-rate and affordable housing. It would implement the General Plan goals, revive aging shopping centers, and increase housing supply in the City. Additionally, increased housing would increase the demand for retail businesses. Overall, the HODs would also result in a net increase in the City's total revenue, which is further discussed below.

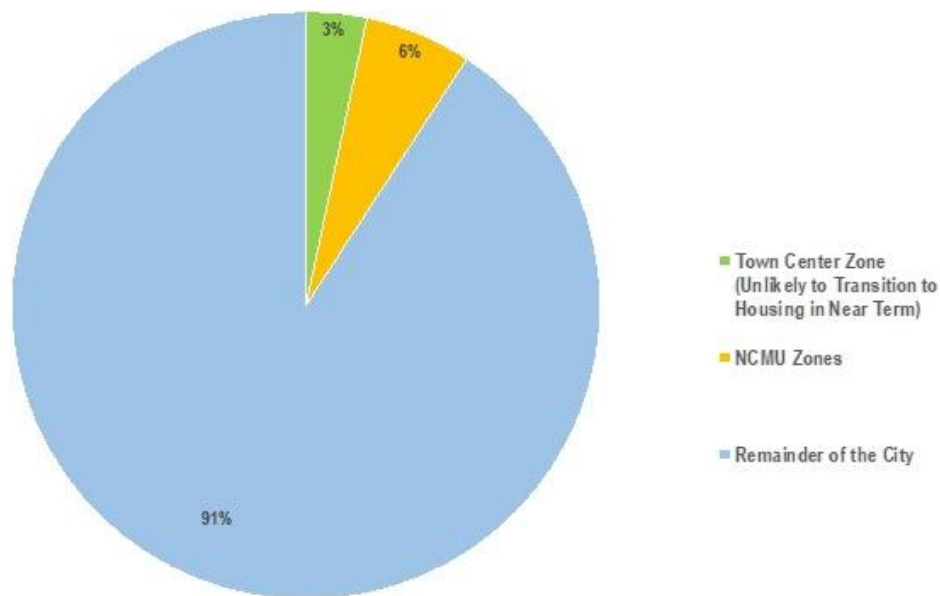
Fiscal analysis

Seifel Consulting was retained by the City of Milpitas to perform a fiscal analysis regarding proposed land use changes that would allow additional residential development to occur within the Town Center (TC) and Neighborhood Commercial Mixed-use (NCMU) zones. This analysis investigates the contribution of NCMU and TC areas to the overall sales tax revenues in the City, assessing the potential impact of the zoning updates on the City's sales tax revenue. Additionally, the study analyzes a prototypical redeveloped site within the NCMU, evaluating the cost-to-revenue ratio in various NCMU scenarios to provide insights into the financial implications of such redevelopment.

Sales Tax Revenues from HODs

Based on an evaluation of existing sales tax revenues in the City, the study highlighted that TC and NCMU areas only represent 9% of total City Sales Tax Revenue currently- with TC accounting for 3% and NCMU accounting for 6%. Overall, Sales Tax revenue is only about 30% of general fund revenues and the NCMU and TC zones only account for a small portion of that revenue category.

Figure 7: Proportion of Annual Sales Tax Revenue (2022), City of Milpitas



Fiscal Impact for Typical HOD Redevelopment Opportunity

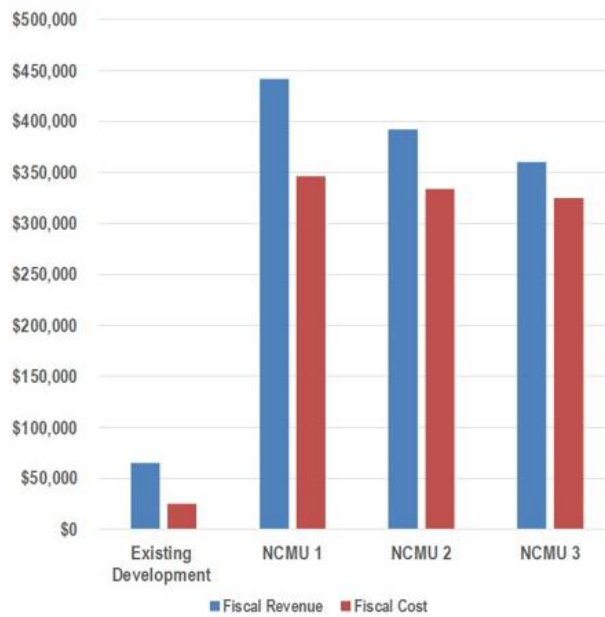
The potential fiscal impact was analyzed by evaluating alternative development scenarios for a typical property in the NCMU zone because several properties within this area are currently underutilized and have vacant commercial space. The fiscal analysis evaluated what could occur if a typical property were to be redeveloped to include housing.

The key findings of the analysis are below:

- If no zoning changes are made, no redevelopment is likely as the current General Plan commercial to residential ratios are infeasible.

- Even with the implementation of a place-based strategy, which maintains a robust minimum commercial floor area requirement for much of the HODs, only small portions of the HODs are likely to redevelop in the near future.
- Projected total General Fund revenues from new development is anticipated to exceed the total fiscal costs of providing services to future residents and employees for each of the development scenarios. This analysis indicates that new infill mixed-use and residential development is likely to have a positive fiscal impact on the City of Milpitas.

Figure 8: Potential Fiscal Impact from Typical HOD Development opportunity in FY 2022/23 Constant Dollars



Next Steps

General Plan Amendment

The proposed zoning change will require a General Plan Amendment to update the definitions of NCMU and TWC land use designations. The proposed language of the updated definitions in the General Plan Amendment is included in this memo.

EIR Consistency Memo/Addendum

The EIR Consistency Memo/Addendum analyzes the proposed zoning and its potential impact on the environment compared to the scenario analyzed as part of the General Plan EIR. The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of aesthetics is required.

Integrate Zoning within Citywide Zoning Update

Once approved, the proposed zoning updates, both map and text edits, for the NCMU and TC zones will be integrated into the citywide zoning code.

Appendix B: Renderings of Phased Implementation

NCMU at Calaveras Boulevard Phase 1



NCMU at Calaveras Boulevard Phase 2



NCMU at Calaveras Boulevard Phase 3



NCMU at Calaveras Boulevard Phase 4



NCMU at Landess Ave Phase 1



NCMU at Landess Ave Phase 2



NCMU at Landess Ave Phase 3



NCMU at Landess Ave Phase 4



NCMU at Dixon Landing Phase 1



NCMU at Dixon Landing Phase 2



NCMU at Dixon Landing Phase 3



NCMU at Dixon Landing Phase 4



Town Center Phase 1



Town Center Phase 2



Town Center Phase 3



Town Center Phase 4





Housing Opportunity District Project

Addendum to the Milpitas General Plan 2040 EIR
State Clearinghouse #2020070348

prepared by

City of Milpitas

Department of Planning and Neighborhood Services
455 East Calaveras Boulevard
Milpitas, California 95035
Contact: Avery Stark, Senior Planner

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Oakland, California 94612

April 2024



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Housing Opportunity District Project

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Table of Contents

1	Introduction and Project Description	1
1.1	Project Title	1
1.2	Lead Agency/Project Sponsor Name and Address.....	1
1.3	Contact Person and Phone Number	1
1.4	Project Location	1
1.5	Project Background	3
1.6	Project Description.....	5
1.7	Discretionary Action.....	14
1.8	Prior Environmental Document(s)	14
1.9	Location of Prior Environmental Document(s)	14
2	Overview of CEQA Guidelines Section 15164 and Section 15162	15
3	Environmental Effects and Determination	17
3.1	Environmental Areas Determined to Have New or Substantially More Severe Significant Effects Compared to Those Identified in the Previous EIR	17
3.2	Determination.....	18
4	Addendum Evaluation	19
4.1	Aesthetics.....	19
4.2	Agriculture and Forestry Resources.....	20
4.3	Air Quality	20
4.4	Biological Resources.....	21
4.5	Cultural Resources	22
4.6	Energy	23
4.7	Geology and Soils	24
4.8	Greenhouse Gas Emissions	25
4.9	Hazards and Hazardous Materials	26
4.10	Hydrology and Water Quality	26
4.11	Land Use and Planning.....	27
4.12	Mineral Resources	28
4.13	Noise	28
4.14	Population and Housing.....	29
4.15	Public Services.....	30
4.16	Recreation	32
4.17	Transportation/Traffic	32
4.18	Tribal Cultural Resources	34
4.19	Utilities and Service Systems	35
4.20	Wildfire.....	36

5 Summary of Findings38

6 References39

6.1 Bibliography39

6.2 List of Preparers39

Tables

Table 1 Summary of Areas of Potential Impact under the General Plan EIR.....3

Table 2 NCMU Zone Development Standards6

Table 3 TC Zone Development Standards.....7

Table 4 Buildout Compared to General Plan EIR8

Figures

Figure 1 Regional Project Location2

Figure 2 NCMU Calaveras Blvd Likely Redevelopment Scenario9

Figure 3 NCMU Landess Ave I Likely Redevelopment Scenario.....10

Figure 4 NCMU Landess Ave II Likely Redevelopment Scenario.....11

Figure 5 NCMU Dixon Road Likely Redevelopment Scenario12

Figure 6 TWC Likely Redevelopment Scenario13

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1 Introduction and Project Description

1.1 Project Title

City of Milpitas Housing Opportunity District Project

1.2 Lead Agency/Project Sponsor Name and Address

City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

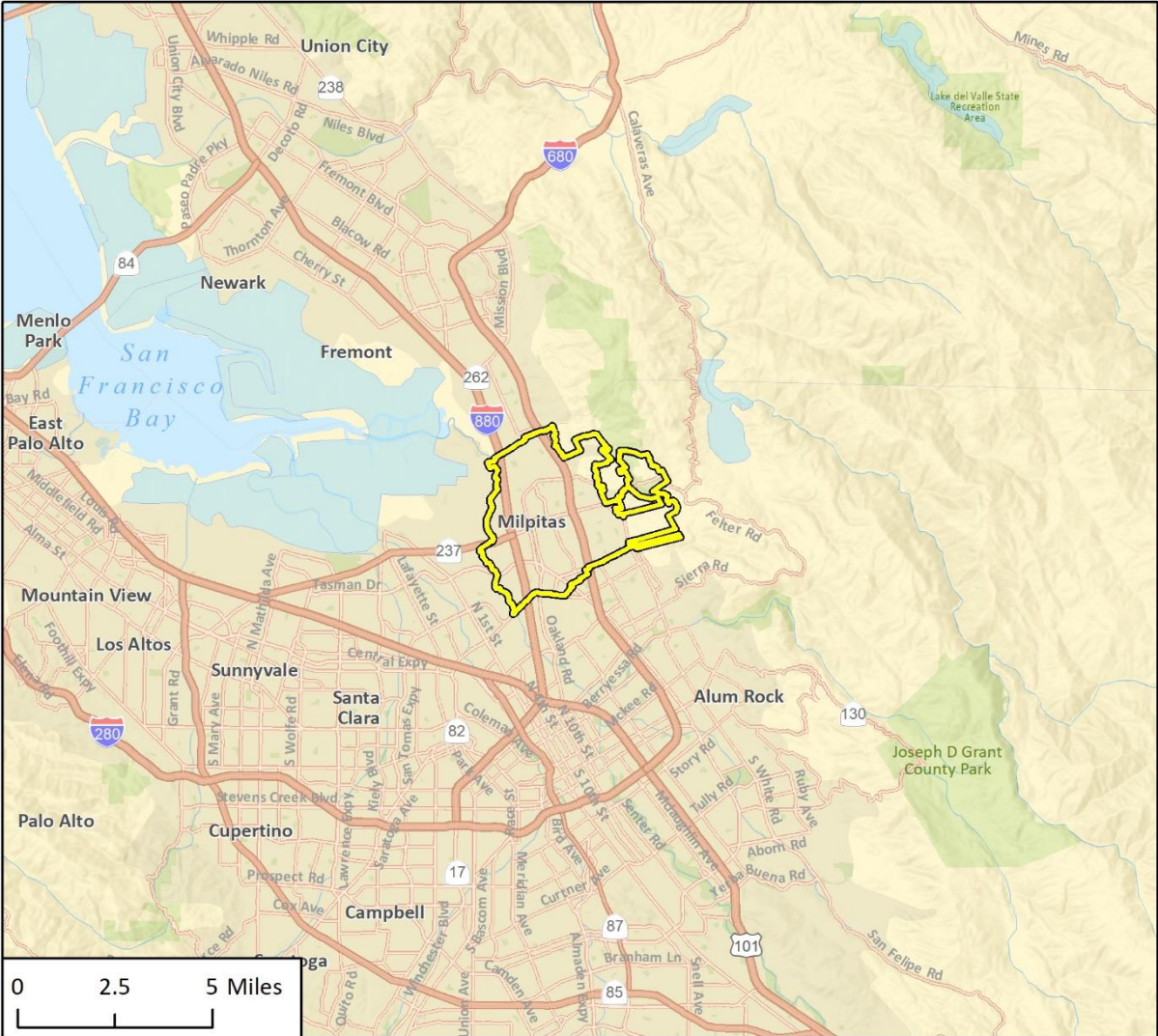
1.3 Contact Person and Phone Number

Avery Stark
Acting Senior Planner
City of Milpitas
astark@milpitas.gov
(408) 586-3288

1.4 Project Location

The city of Milpitas is located in Santa Clara County, approximately 28 miles east of the Pacific Ocean and 38 miles southeast of San Francisco. The city is located north and east of the city of San Jose, and south of the city of Fremont. Much of the city is situated between two major freeways (Interstate 880 [I-880] and Interstate 680 [I-680]), State Route 237, and a County expressway. The project area is within Milpitas's city limits, which as shown in Figure 1.

Figure 1 Regional Project Location



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 City of Milpitas

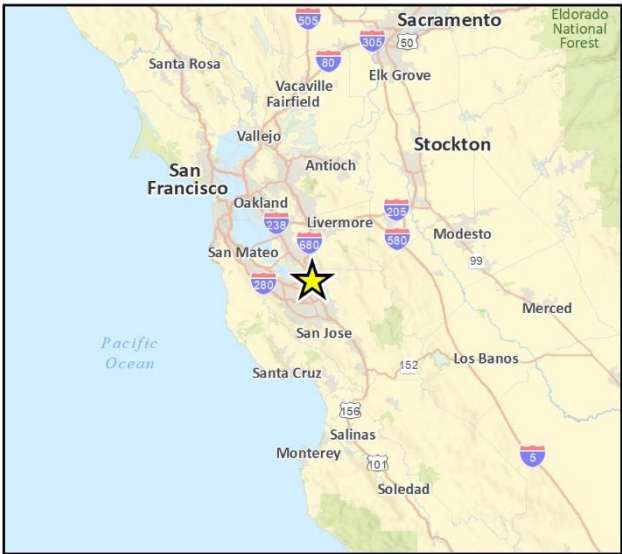


Fig 1. Regional location

1.5 Project Background

In September 2020, the City of Milpitas applied for Local Early Action Planning Grant funding to establish Housing Opportunity Districts (HODs) 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. The proposed project plays a critical role in implementing both the General Plan and the Housing Element to increase housing in the city while creating vibrant mixed-use neighborhoods.

Milpitas General Plan 2040 and EIR

The City of Milpitas adopted its General Plan 2040 in March 2021, outlining goals and policies to shape the future development of the city. The General Plan prioritizes the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalizing some of the older neighborhood-serving commercial land use designations, including the Neighborhood Commercial Mixed-Use (NCMU) and Town Center (TWC). While the General Plan designates the NCMU and TWC areas as mixed-use, a less restrictive relationship between the non-residential and residential densities makes redevelopment in these areas more feasible in practice. This limitation necessitates a critical review of the General Plan's definitions. The HOD project reexamines these definitions and proposes a General Plan amendment to align them with the evolving needs and goals of the community.

The City's General Plan underwent extensive environmental review in the form of an Environmental Impact Report (EIR), which was certified in 2021. The City of Milpitas General Plan Update EIR (herein called the General Plan EIR) addressed the potential environmental effects of the planned buildout of Milpitas through the year 2040 and concluded that implementation of the General Plan would result in various levels of environmental impacts as detailed in Table 1. Mitigation measures were incorporated into the General Plan EIR to reduce potential impacts from development under the General Plan.

Table 1 Summary of Areas of Potential Impact under the General Plan EIR

Issue Area	Level of Significance after Mitigation	Mitigation Proposed in the General Plan EIR
Aesthetics	Less than Significant	None
Agricultural and Forest Resources	Less than Significant	None
Air Quality	Less than Significant	None
Biological Resources	Less than Significant	None
Cultural and Tribal Cultural Resources	Less than Significant	None
Geology	Less than Significant	None
Greenhouse Gases, Climate Change, and Energy	Less than Significant	None
Hazards and Hazardous Materials	Less than Significant	None
Hydrology and Water Quality	Less than Significant	None
Land Use Planning and Population/Housing	Less than Significant	None
Mineral Resources	Less than Significant	None

Issue Area	Level of Significance after Mitigation	Mitigation Proposed in the General Plan EIR
Noise	Significant and Unavoidable	Mitigated to the extent feasible through General Plan policies and actions. No additional feasible mitigation is available.
Public Services and Recreation	Less than Significant	None
Transportation	Significant and Unavoidable	Mitigated to the extent feasible through General Plan policies and actions. No additional feasible mitigation is available.
Utilities and Service Systems	Less than Significant	None
Wildfire	Less than Significant	None
Cumulative/Other CEQA-Required Topics	Significant and Unavoidable	Mitigated to the extent feasible through General Plan policies and actions. No additional feasible mitigation is available.

General Plan Assumptions

The General Plan buildout analysis assumes a 20-year horizon, and 2040 is assumed to be the buildout year of the General Plan. The General Plan is intended to accommodate future growth in Milpitas, including new businesses, expansion of existing businesses, and new residential uses.

As detailed in the General Plan EIR in Table 2.0-2 on Page 2.0-16, at full buildout the proposed General Plan could accommodate a total of up to 33,401 housing units, a population of 113,530 people, 47,737,536 square feet of non-residential building square footage, and 84,333 jobs within the General Plan planning area. As shown in Table 2.0-2 of the General Plan EIR, this represents development growth over existing conditions of up to 11,186 new housing units, 37,473 people, 19,729,648 square feet of new non-residential building square footage and 36,795 jobs.

Milpitas Housing Element 2023-2031

In January 2023, the City of Milpitas approved its 6th Cycle Housing Element, which outlines programs and actions the City intends to undertake to fulfill its regional housing growth obligations (RHNA). In the current RHNA cycle (2023-2031), the City of Milpitas has been allocated 6,713 units, which is more than double the allocation from the previous cycle. Furthermore, 3,786 of the units are planned to be affordable (i.e., below market rate) with 2,655 of those units at the low- or very-low-income affordability level.

The Housing Element identified the existing General Plan land use designations of NCMU and TWC as restrictive and potential barriers to new housing development. The NCMU designation was determined to fall short of the minimum density threshold deemed effective for contributing to low-income housing, as stipulated by the Housing and Community Development Department guidelines to accommodate the RHNA in the Housing Element. To overcome this constraint, the Housing Element identified an action to establish Housing Opportunity Districts with higher residential densities, flexible commercial and development requirements, and incentives for affordable housing.

Comprehensive Zoning Code Update

In order to implement the General Plan, the City is required to update its zoning as appropriate to ensure consistency with the land use designations. In 2023, the City of Milpitas launched an effort to comprehensively update the Zoning Ordinance. This update will not only address the changes in the

General Plan but also ensure compliance with recent state laws aimed at fostering the production and preservation of housing throughout California. The updated NCMU and TC zoning and development standards will be integrated into the citywide zoning code update to ensure consistency.

1.6 Project Description

The City of Milpitas Housing Opportunity District project, herein referred to as “project” or “HOD”, would involve amending the General Plan and zoning standards for the NCMU and TWC land use designations to allow for increased residential development and decreased non-residential development. The HOD envisions transforming the NCMU and TWC neighborhoods into mixed-use communities, which would involve creating public spaces, supporting local businesses, improving public health, and providing amenities and housing that align with the community's goals and vision. Accordingly, the proposed zoning and development standards would allow higher residential densities within mixed-use buildings in these zones, while allowing residential-only projects on certain parcels with a strong emphasis on affordable housing throughout. The envisioned buildout would be complemented by streetscape and other improvements that are contextual to the local area.

NCMU Designation

Through the 2021 General Plan Update, the City established a new NCMU designation. The NCMU consists of approximately 140 acres within the City of Milpitas General Plan Planning Area. This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on neighborhood commercial activity. It is intended that neighborhood-serving active uses such as grocery stores, retail, restaurants, and personal services at the ground level will help create a pedestrian-oriented streetscape and public spaces.

The current General Plan designation for the NCMU allows residential uses, hotel, and office development on a limited basis. The proposed HOD would allow these uses on upper floors. Similar to the current NCMU designation, the HOD would encourage 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 0.75.

The current General Plan designation for the NCMU allows for either vertical or horizontal residential development. The proposed HOD would be updated to provide opportunities for both vertical and horizontal mixed-use residential development. Compared to the current designation which allows a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-serving retail and commercial services, the proposed HOD would allow multifamily dwelling units at up to 65 dwelling unit per acre for mixed-use and residential only projects. This is intended to provide for area vibrancy and to encourage the redevelopment of aging commercial centers. In addition, the HOD would require redevelopment of larger neighborhood commercial centers to provide a minimum of 0.25 FAR of new or rehabilitated neighborhood-serving retail and commercial services. Parcels fronting major streets would provide a minimum 0.10 FAR of neighborhood-serving retail and commercial services. Compared to the current General Plan designation, the HOD would not require any minimum non-residential FAR for parcels that allow residential only developments.

Currently, there is no NCMU zone in the Zoning Code. Parcels designated NCMU in the General Plan are currently assigned C1 (Neighborhood Commercial), C2 (General Commercial), or MP (Industrial Park) zones of the Zoning code. The new NCMU zones would apply to the Dixon Road (Sunny Hills),

Calaveras and North Park Neighborhood, and Landess neighborhood commercial areas, which are currently designated NCMU in the 2040 General Plan. Each zone allows a higher residential density along with a reduced minimum non-residential FAR that will help implement the General Plan goal to increase vibrancy and incentivize the redevelopment of aging strip retail centers into new mixed-use projects.

The proposed NCMU Zoning District is subdivided into three subdistricts:

1. **NCMU1** would allow commercial or mixed-use development with a minimum required commercial FAR of 0.25.
2. **NCMU2** would allow commercial or mixed-use development with a minimum required commercial FAR of 0.1.
3. **NCMU3** would allow 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.

The current and proposed NCMU development standards are provided in Table 2.

Table 2 NCMU Zone Development Standards

Standards	Current Zones (C1, C2, MP)	NCMU1	NCMU2	NCMU3
Density, Minimum-Maximum Residential (Dwellings)¹	N/A	Maximum: 65 du/ac	Maximum: 65 du/ac	Minimum: 30 du/ac Maximum: 65 du/ac
Floor Area Ratio, Non-Residential and Mixed-Use projects	0.35 (C1) 0.5 (C2 and MP)	0.25 min. 0.75 max.	0.10 min. 0.75 max.	No minimum commercial FAR 0.75 max.
Building Height	35' (C1 and MP) No height maximum (C2)	75' or 6 stories	75' or 6 stories	75' or 6 stories

¹ For NCMU3 properties, density may be averaged over contiguous parcels

TWC Designation

The TWC designation of the 2040 General Plan consists of approximately 133 acres within the City of Milpitas General Plan Planning Area. This designation provides for a variety 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 current TWC General Plan designation states that projects may consist of a wholly non-residential development, or a mixed-use residential project that integrates residential and nonresidential uses either vertically or horizontally. The proposed HOD would provide opportunities for both vertical and horizontal mixed-use neighborhood uses. Currently, residential-only developments are not allowed within the Town Center but residential developments of up to 40 units per acres may be permitted as part of a mixed-use development project.

Under the current General Plan, developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component. Under the proposed HOD, 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 would be required for redevelopment of major shopping centers and a minimum of 0.10 FAR of non-residential ground floor uses would be required along major streets. Similar to the current designation, all non-residential development under the HOD would be required to adhere to a FAR maximum of up to 0.85.

Currently, the TWC General Plan designation corresponds to the TC zone of the zoning code. But with the updated General Plan definition, the TC zoning and development standards would be redefined for the same geographic area. Similar to the NCMU areas, the proposed zoning utilizes a place-based and flexible approach by establishing three distinct Town Center zones (TC1, TC2, and TC3) based on their size, location, current use, and future use.

The TC zone would be subdivided into three subdistricts:

1. **TC1** would allow commercial or mixed-use development with a minimum non-residential FAR of 0.35.
2. **TC2** would allow commercial or mixed-use development with a minimum non-residential FAR of 0.1.
3. **TC3** would allow commercial, mixed-use or residential only development with no minimum commercial FAR. TC3 includes parcels that are less suitable for retail uses, such as those located on secondary streets, lacking street frontages, or adjacent to residential zones.

While all TC zones would allow for a maximum density of 55 dwelling units per acre and maximum building height of 75 feet or 6 stories, each TC zone would provide a different minimum commercial FAR requirement. The current and proposed TC development standards are provided in Table 3.

Table 3 TC Zone Development Standards

Standards	Current Zone (TC)	TC1	TC2	TC3
Density, Minimum-Maximum Residential (Dwellings)¹	40 du/ac	Maximum: 55 du/ac	Maximum: 55 du/ac	Minimum: 30 du/ac Maximum: 55 du/ac
Floor Area Ratio, Non-Residential and Mixed-Use projects	0.85	0.35 min. 0.85 max.	0.10 min. 0.85 max.	No min. commercial FAR 0.85 max.
Building Height	35' or 3 stories 75' or 6 stories with conditional use permit	75' or 6 stories	75' or 6 stories	75' or 6 stories

¹ For TC3 properties, density may be averaged over contiguous parcels

Buildout

The proposed zoning changes under the HOD would result in changes to the allowable number of residential units and non-residential space within the NCMU and TC zones. The likely buildout scenario for the project is based on an estimate of the realistic number of units that could occur under the HOD based on current trends that the City has observed. The likely buildout scenario was based on analysis of existing uses, site constraints, and stakeholder interviews. The likely buildout scenario factors in that housing development is mainly accomplished by the private sector and dependent on factors independent of City control, such as financial resources. The City identified

the most likely properties to redevelop in the near and medium term. For each parcel that was included in the likely development scenario, it was assumed the project minimized the amount of non-residential use on site and maximized the allowed residential buildout.

A summary of the proposed likely buildout scenario compared to the existing buildout and the buildout scenario analyzed within the General Plan EIR is shown in Table 4.

Table 4 Buildout Compared to General Plan EIR

	Non-residential space (square feet)	Residential units (du)
TWC		
Existing	1,426,803	0
General Plan EIR Buildout Assumption	1,600,000	1,064
Likely Build-out Proposed TWC from existing (change from GP EIR)	-262,085 (Δ-0.44 million)	+1,013 (Δ-51)
NCMU		
Existing	987,077	0
General Plan EIR Buildout Assumption	3,200,000	1,578
Likely Build-out Proposed NCMU from existing (change from GP EIR)	-206,091 (Δ-2.4 million)	+1,895 (Δ+317)

The analysis within this Addendum relies upon the likely buildout scenario, which would result in an overall reduction in non-residential space and an increase in residential units. As shown in Table 4, the HOD would result in a reduction of approximately 262,085 square feet of non-residential space within the TWC and 206,091 square feet in the NCMU, compared to existing conditions. In total, the HOD would result in a reduction of roughly 468,176 square feet of non-residential space compared to existing conditions across both districts. Additionally, the HOD would result in approximately 2,908 new units compared to existing conditions across both districts. Compared to the General Plan EIR, the residential buildout within the TWC would result in a reduction of 51 units and an increase of 317 units within the NCMU. Therefore, the project would result in a net increase of 266 residential units¹, and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to the General Plan EIR. The likely buildout scenario in the NCMU is shown in Figure 2 through Figure 5 and the likely buildout in the TWC is shown in Figure 6.

¹ 266 units = 317 units – 51 units

Figure 2 NCMU Calaveras Blvd Likely Redevelopment Scenario

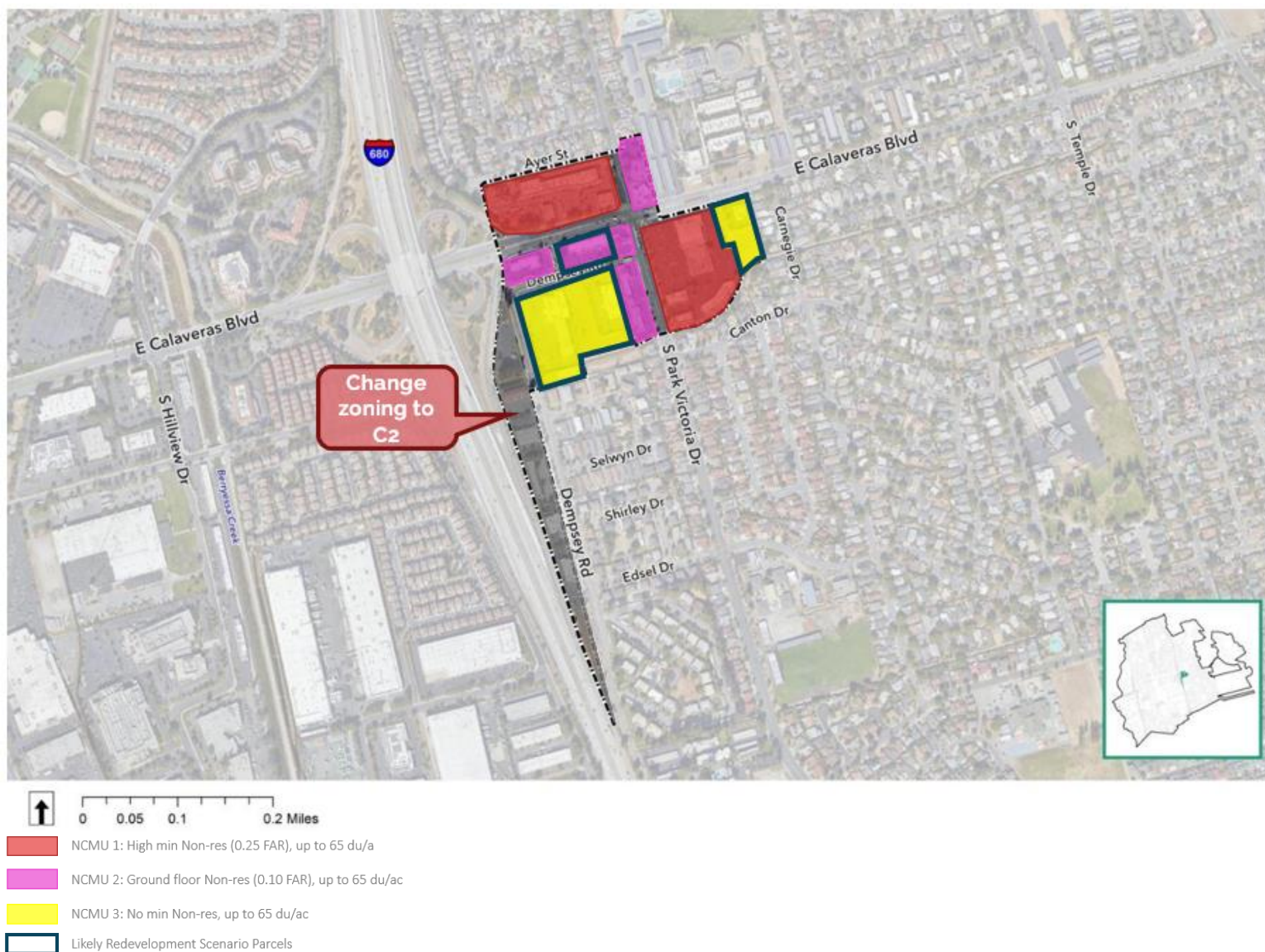


Figure 3 NCMU Landess Ave I Likely Redevelopment Scenario

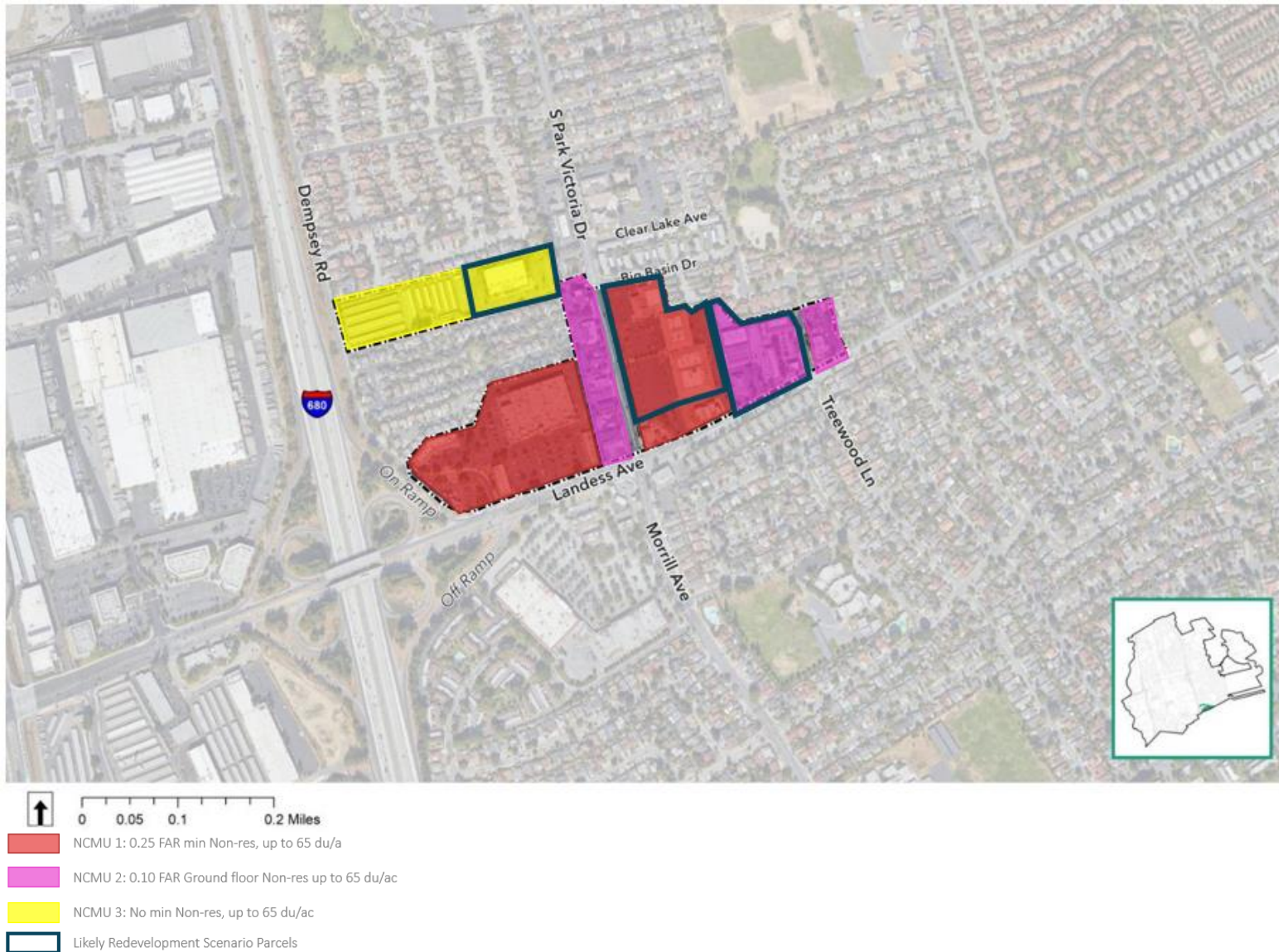


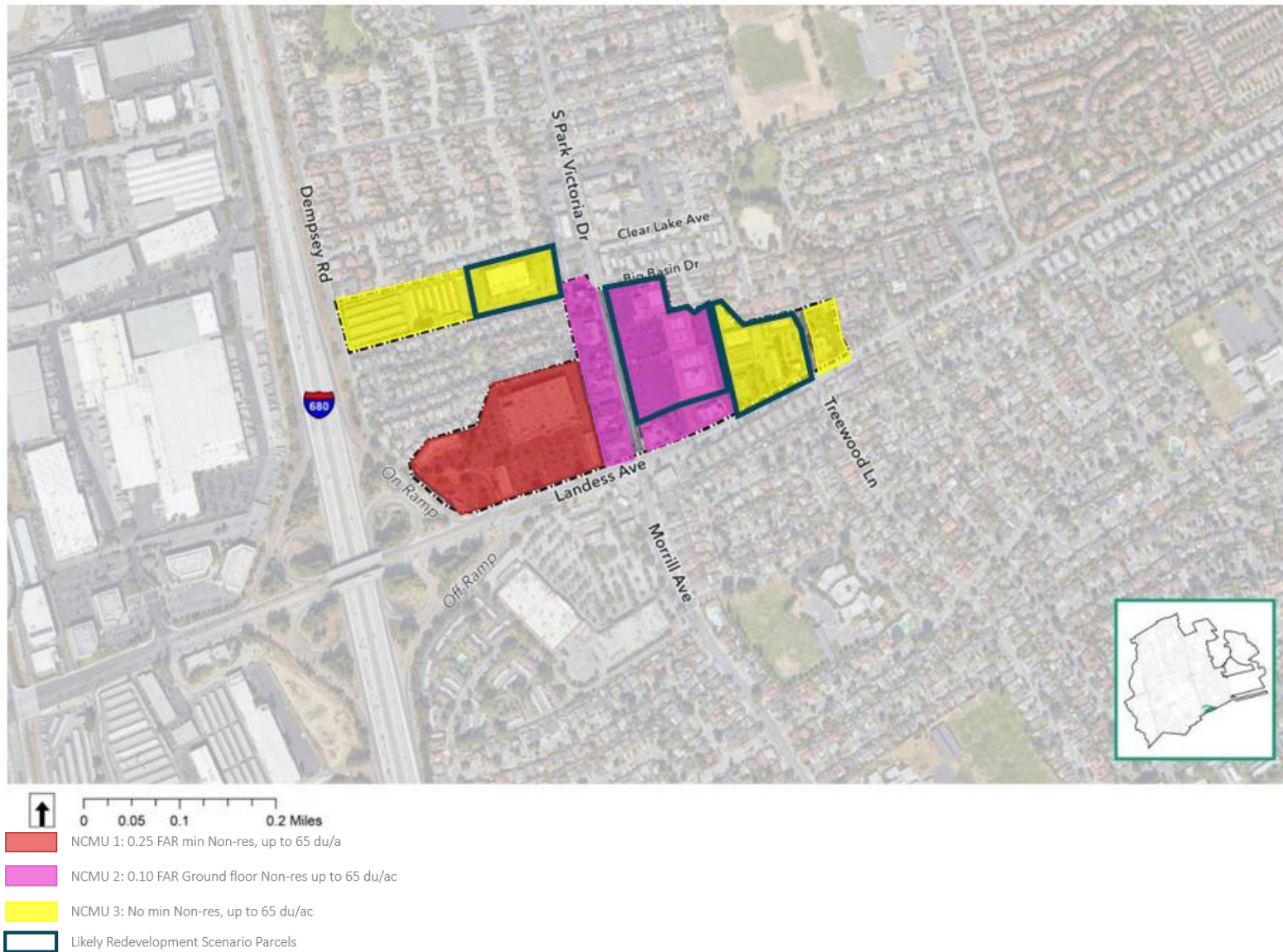
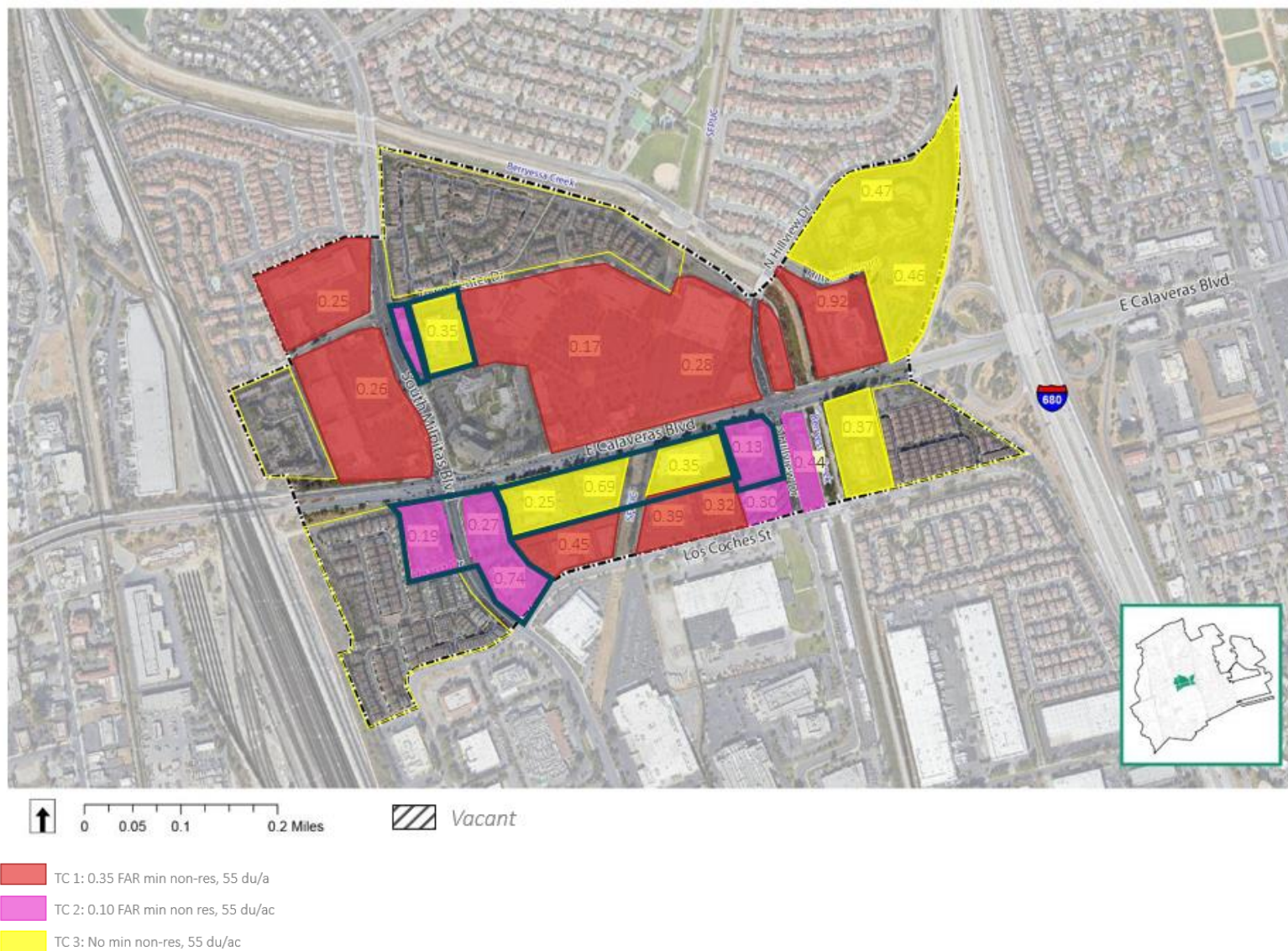
Figure 4 NCMU Landess Ave II Likely Redevelopment Scenario

Figure 5 NCMU Dixon Road Likely Redevelopment Scenario



Figure 6 TWC Likely Redevelopment Scenario



This Addendum, therefore, analyzes the changes and potential impacts related to the adoption of HOD. This Addendum is intended to evaluate consistency of the HOD with the existing General Plan EIR to comply with CEQA. In particular, and in line with Public Resources Code Section 21083.3, this Addendum assesses whether the HOD, as a policy and programs document, includes impacts not addressed or previously analyzed in the General Plan EIR.

1.7 Discretionary Action

Implementation of the HOD would require the following discretionary actions by the City of Milpitas Planning Commission/City Council:

- Consider an Addendum to the General Plan EIR
- Approval of a General Plan Amendment and Zoning Text and Map Amendments to establish Development Standards

1.8 Prior Environmental Document(s)

City of Milpitas, General Plan Update Environmental Impact Report (General Plan Update EIR). State Clearinghouse Number 2020070348, certified March 2021.

1.9 Location of Prior Environmental Document(s)

City of Milpitas, Planning Department Website:

<https://www.milpitas.gov/milpitas/departments/environmentaldocuments/#1628098804620-bea5329a-9f62>

2 Overview of CEQA Guidelines Section 15164 and Section 15162

CEQA Guidelines Sections 15162 and 15164 set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when a project has a previously certified EIR.

CEQA Guidelines Section 15164 states that a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. CEQA Guidelines Section 15162(a) states that no Subsequent or Supplemental EIR shall be prepared for a project with a certified EIR unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project that will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR.
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR.
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.
 - D. Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The analysis pursuant to CEQA Guidelines Section 15162 demonstrates whether the lead agency can approve the activity as being within the scope of the existing certified EIR, that an addendum to the existing EIR would be appropriate, and no new environmental document, such as a new EIR, would be required. The addendum need not be circulated for public review but can be included in or attached to the Final EIR, and the decision-making body shall consider the addendum with the Final EIR prior to deciding on the project.

The City has prepared this 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). The following 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 responses herein substantiate and support 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, in conjunction with the EIR, adequately analyze potential environmental impacts.

3 Environmental Effects and Determination

3.1 Environmental Areas Determined to Have New or Substantially More Severe Significant Effects Compared to Those Identified in the Previous EIR

The subject areas checked below were determined to be new significant environmental effects or to be previously identified effects that have a substantial increase in severity either due to a change in project, change in circumstances, or new information of substantial importance, as indicated by the checklist and discussion on the following pages.

■ NONE

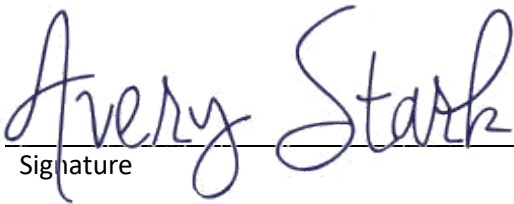
- | | | |
|--|---|---|
| ☐ Aesthetics | ☐ Agriculture and Forestry Resources | ☐ Air Quality |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Energy |
| ☐ Geology/Soils | ☐ Greenhouse Gas Emissions | ☐ Hazards & Hazardous Materials |
| ☐ Hydrology/Water Quality | ☐ Land Use/Planning | ☐ Mineral Resources |
| ☐ Noise | ☐ Population/Housing | ☐ Public Services |
| ☐ Recreation | ☐ Transportation | ☐ Tribal Cultural Resources |
| ☐ Utilities/Service Systems | ☐ Wildfire | ☐ Mandatory Findings of Significance |

3.2 Determination

Based on this analysis:

- ☐ Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous EIR due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, a SUBSEQUENT or SUPPLEMENTAL EIR is required.

- ☒ No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous EIR due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the previously certified EIR is adequate and this evaluation serves as an ADDENDUM to the Milpitas General Plan Update Final Environmental Impact Report (General Plan FEIR), State Clearinghouse Number 2020070348 dated March 2021.



Signature

Avery Stark

Printed Name

April 2, 2024

Date

Acting Senior Planner

Title

4 Addendum Evaluation

4.1 Aesthetics

General Plan EIR Findings

Aesthetics are discussed in Section 3.1, *Aesthetics and Visual Resources*, of the General Plan EIR. The General Plan EIR determined that with implementation of General Plan policies and actions, impacts would be less than significant for scenic vistas, scenic highways, visual quality, and light and glare.

Addendum Analysis

As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR. The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan. Development standards in the zoning code, General Plan policies regarding design, and Residential Design Standards and Guidelines would also apply. The HOD focuses growth to areas located near existing commercial uses and services and on underutilized sites. According to the California Scenic Highway Mapping System, administered by Caltrans, there are no officially designated State Scenic Highways in the vicinity of the city of Milpitas (Caltrans 2023). Additionally, while the city contains numerous areas and viewsheds with relatively high scenic value, there are no officially designated scenic vista points in the city according to the 2040 Milpitas General Plan (Milpitas 2021). Therefore, the proposed project would not affect scenic vistas or highways within the city. Parcels in the NCMU and TCW designations that would likely be redeveloped under the HOD already contain some type of development or have been designated for future development in the General Plan. The HOD would not involve the extension of roads or other infrastructure that could indirectly lead to altered views. In addition, as shown in Table 2 and Table 3, the proposed project would not result in increased building heights beyond those currently allowed within the zoning code. The proposed residential and non-residential uses under the HOD would be similar to existing uses in the area and would not result in substantial new sources of light and glare. Furthermore, new development under the HOD would be required to comply with existing regulations and zoning standards regarding building height, scale, lighting, and design, similar to development analyzed within the General Plan EIR.

Furthermore, applications for development under the updated zoning standards would be subject to Chapter 500 of the Milpitas Municipal Code, which requires that future development be reviewed by the Planning Commission for consistency with applicable design guidelines and compatibility with existing character. Compliance with these requirements would ensure that the new housing would not substantially degrade the existing visual character in the proposed project area, damage existing scenic resources, or create light or glare that would adversely affect views.

The proposed project would not result in new or substantially more severe impacts to aesthetics compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of aesthetics is required.

4.2 Agriculture and Forestry Resources

General Plan EIR Findings

Agriculture and forestry resources are discussed in Section 3.2, *Agricultural and Forest Resources*, of the General Plan EIR. The General Plan EIR found that impacts regarding the potential to conflict with existing farmlands, agricultural zoning or Williamson Act Contracts, and the conversion of farmlands, including prime farmland, unique farmland, and farmland of statewide importance would be less than significant.

There are no forest lands or timber lands located within the Milpitas Planning Area. The General Plan EIR found no impacts related to forest lands or timber lands.

Addendum Analysis

There are no areas zoned, designated or used for agriculture or forestry resources, and there are no agriculture or forestry resources, within or near the proposed NCMU or TC zones. Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to agriculture and forestry resources compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of agriculture and forestry is required.

4.3 Air Quality

General Plan EIR Findings

Air quality is discussed in Section 3.3, *Air Quality*, of the General Plan EIR. The General Plan EIR determined that impacts to air quality would be less than significant regarding conflicting with applicable air quality plans, cumulatively considerable net increase of criteria pollutants for which the region is in non-attainment, exposure of sensitive receptors to pollutant concentrations, and the potential to create objectionable odors. The General Plan EIR also stated that the City would enforce compliance with the Bay Area Air Quality Management District's 2017 Clean Air Plan and all applicable regional plans and programs that reduce air quality impacts.

Addendum Analysis

The proposed project would increase the maximum allowable dwelling units within the NCMU and TC zones, and no new sensitive land uses not already allowed in the project area would be added. The proposed project would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR. The proposed population growth could lead to additional traffic and associated air pollutant emissions. However, as discussed in Section 4.14, *Population and Housing*, 266 new residential units would result in a total population increase of approximately 833 new residents compared to the General Plan EIR. The increase of 833 new residents would represent a small increase over the anticipated General Plan EIR population (2.2 percent). The proposed project would concentrate development along existing transit corridors and in existing urban areas where goods and services are accessible to bicyclists and pedestrians. This would reduce vehicle trips and vehicle miles traveled compared to development in more car-dependent areas of the city. Additionally, the proposed project would result in a net reduction of approximately 2,840,000 square feet of non-residential space compared to the General Plan EIR which would largely offset the potential increase in emissions due to increased residential units.

Furthermore, the HOD, in and of itself, does not propose specific projects but makes updates the General Plan and updates the zoning code which regulate various aspects of new development in Milpitas. Because it is a policy document, the HOD would not, in and of itself, result in impacts to air quality. Future development facilitated by the HOD would be required to comply with State, regional, and local requirements and regulations regarding air quality including SB 32, AB 32, SB 97, and SB 375, as well as California Air Resources Board and Bay Area Air Quality Management District guidelines. Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to air quality compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of air quality is required.

4.4 Biological Resources

General Plan EIR Findings

Biological resources are addressed in Section 3.4, *Biological Resources*, of the General Plan EIR. The General Plan EIR determined that impacts regarding special status species, riparian habitat or other sensitive natural communities, or protected wetlands would be less than significant. Similarly, impacts to protected movement corridors were determined to be less than significant.

The General Plan EIR found that the General Plan would not conflict with local policies or ordinances protecting biological resources, the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Impacts were determined to be less than significant.

Addendum Analysis

Policies and actions in the General Plan that were referenced in the General Plan EIR would help reduce impacts to less than significant levels. These policies and actions would be required with implementation of the HOD.

The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan. The HOD focuses growth to areas located near existing commercial uses and services and on underutilized sites. Development under the project would occur on parcels that have already been developed and not within areas designated as open space or where vegetation and other biological resources would be affected. Future development facilitated by the HOD would be required to comply with federal, State, and local requirements and regulations regarding biological resources including General Plan policies and actions. As a result, the proposed project would not introduce new impacts or substantially increased impacts related to biological resources compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of biological resources is required.

4.5 Cultural Resources

General Plan EIR Findings

Cultural resources are addressed in Section 3.5, *Cultural Resources*, of the General Plan EIR. The General Plan EIR determined that the implementation of the General Plan would result in a less than significant impacts regarding historic resources, archaeological resources, and human remains.

Addendum Analysis

The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan. As such, the potential for impacts from the proposed project would be generally the same as what was identified in the General Plan EIR. Moreover, since the new housing units would be primarily infill development on already developed lots, depth and extent of grading would be similar to that anticipated and analyzed in the General Plan EIR. Therefore, the potential to uncover buried resources during construction of new housing would be similar to that anticipated and analyzed in the General Plan EIR. Future development facilitated by the HOD would be required to comply with State, regional, and local requirements and regulations regarding cultural resources including General Plan policies and actions, the City's municipal code, California Health and Safety Code Section 7050.5, and California Public Resources Code Section 5097.98. Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to historic or other cultural resources compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described

in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of cultural resources is required.

4.6 Energy

General Plan EIR Findings

Energy impacts are discussed in Section 3.7, *Greenhouse Gases, Climate Change, and Energy*, of the General Plan EIR. The General Plan EIR determined that compliance with applicable Federal, State, and local regulations regarding energy use, increased use of renewable energy, and new building energy efficiency standards would result in less than significant impacts.

Addendum Analysis

The proposed project would result in additional housing units on certain parcels, where requested by applicants and approved by the City. As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR. However, new housing projects would be required to comply with standards set in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation. California's Green Building Standards Code (CALGreen; California Code of Regulations, Title 24, Part 11) requires implementation of energy efficient light fixtures and building materials into the design of new construction projects. Furthermore, the 2019 Building Energy Efficiency Standards (CBC Title 24, Part 6) requires newly constructed buildings to meet energy performance standards set by the California Energy Commission. As the name implies, these standards are specifically crafted for new buildings to result in energy efficient performance so the buildings do not result in wasteful, inefficient, or unnecessary consumption of energy. The standards are updated every three years, and each iteration is more energy efficient than the previous standards. Furthermore, new housing projects would further reduce their use of nonrenewable energy resources as the electricity generated by renewable resources provided by PG&E continues to increase to comply with state requirements through Senate Bill 100, which requires electricity providers to increase procurement from eligible renewable energy resources to 33 percent of total retail sales by 2020, 60 percent by 2030, and 100 percent by 2045. Therefore, the proposed project would not result in new or substantially more severe energy impacts compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of energy is required.

4.7 Geology and Soils

General Plan EIR Findings

Impacts related to geology and soils are discussed in Section 3.6, *Geology and Soils*, of the General Plan EIR. The General Plan EIR determined that implementation of General Plan policies and actions, including those requiring project-specific geotechnical investigations, and applicable State and City regulations, impacts to geology and soils would be less than significant for adverse effects related to ground shaking, seismic-related ground failure, unstable soil, landslide, loss of topsoil, soil erosion, and paleontological resources.

The General Plan EIR determined that construction within the city limits allowed by the proposed Plan would not require the use of septic tanks or alternative wastewater disposal systems. Limited use of septic tanks may be required within hillside areas of the Planning Area outside the city limits and within the SOI. Adherence to required county health permits and reviews would reduce potential impacts. Impacts would be less than significant.

Addendum Analysis

The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan. As a result, the proposed project would be subject to the same geologic conditions and hazards as those identified in the General Plan EIR. As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR. The proposed HOD would facilitate infill growth, promote housing in close proximity to employment opportunities and would not involve the extension of roads or other infrastructure that could result in significant impacts to geology and soils. The HOD would result in increased residential densities within the NCMU and TC zones but would not result in increased building heights beyond what is currently allowed under the existing code. Therefore, it can reasonably be assumed that the proposed project would not require ground-disturbing activities that would exceed those previously analyzed by the General Plan EIR.

Furthermore, future development facilitated by the HOD would be required to adhere to State and City grading and building standards and requirements related to geological issues and paleontological resources including General Plan policies and actions, the California Building Standards Code, and the City's municipal code. New projects would be required to comply with Section XI-1-15.02 and Section XI-10-45.18 of the Milpitas Municipal Code, which include grading and erosion control requirements for new development within the city. Adherence to these requirements would reduce the potential for property damage, injury, or death resulting from seismic hazards. As a result, the proposed project would not introduce new impacts or substantially increased impacts related to geology, soils, and seismicity compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of geology and soils is required.

4.8 Greenhouse Gas Emissions

General Plan EIR Findings

Greenhouse gas (GHG) impacts are discussed in Section 3.7, *Greenhouse Gases, Climate Change, and Energy*, of the General Plan EIR. The General Plan EIR determined that the General Plan is consistent with Milpitas' adopted Climate Action Plan (CAP) and would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. The General Plan EIR determined that with implementation of General Plan policies and actions, General Plan implementation would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. Impacts were determined to be less than significant.

Addendum Analysis

The proposed project would result in additional housing units on certain parcels, where requested by applicants and approved by the City. As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR.

The proposed population growth could lead to additional traffic and associated greenhouse gas emissions. However, as discussed in Section 4.3, *Air Quality*, the increase of 833 new residents would represent a small increase over the anticipated General Plan EIR population (2.2 percent). The proposed project would concentrate development along existing transit corridors and in existing urban areas where goods and services are accessible to bicyclists and pedestrians. This would reduce vehicle trips and greenhouse gas emissions compared to development in more car-dependent areas of the city. Additionally, the proposed net reduction of approximately 2,840,000 square feet of allowed non-residential space compared to the General Plan EIR would largely offset the potential increase in residential emissions, due to reduced vehicle trips associated with those uses.

Future building associated with the HOD would not include natural gas appliances or natural gas plumbing because the City requires that new residential buildings in the City of Milpitas be all electric, pursuant to City of Milpitas Municipal Code Section 4.106.5. Future buildings would not result in wasteful, inefficient, or unnecessary energy use, as explained in Section 4.6 of this Addendum. Finally, future development would achieve compliance with electric vehicle requirements in the most recently adopted version of CALGreen Tier 2, as this is a City requirement pursuant to Municipal Code Section 4.106.4. Moreover, future development would be required to adhere to General Plan actions and policies and the City's CAP as well as Federal, State, and regional plans, standards and requirements designed to reduce GHG emissions with new residential construction, including Title 20, Division 2, *State Energy Resources Conservation and Development Commission*; and Title 24, Part 11, *California Green Building Standards Code* of the California Code of Regulations. Therefore, the proposed project would not result in new or substantially more severe greenhouse gas impacts compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described

in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of GHG emissions is required.

4.9 Hazards and Hazardous Materials

General Plan EIR Findings

Hazards and hazardous materials are discussed in Section 3.8, *Hazards and Hazardous Materials*, of the General Plan EIR. The General Plan EIR determined that impacts for hazardous materials would be less than significant with implementation of General Plan policies and actions for impacts related to the routine transport, use, or disposal of hazardous materials; the emission of acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school; development on or near sites listed as hazardous material sites pursuant to Government Code Section 65962.5; implementation of emergency response or evacuation plans; and risk of loss, injury, or death involving wildland fires.

Addendum Analysis

The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan EIR. As such, the proposed project and sites for development would be subject to the same conditions as those identified in the General Plan EIR. New housing does not typically introduce hazardous materials and any hazardous materials that would be generated by the proposed project would be limited to the kind of hazardous materials typically found in residential areas (i.e., cleaning projects, paint, etc.). New housing would be required to comply with the same local, state, and federal regulations identified in the General Plan, as well as the City's municipal code requirements regarding hazards and hazardous waste including Title 49, Parts 171-180 of the Code of Federal Regulations, and Title 8, Title 22, and Title 26 of the California Code of Regulations, and their enabling legislation set forth in Chapter 6.95 of the California Health and Safety Code. Additionally, Milpitas is not within an Airport Land Use Compatibility Plan zone and would not result in impacts related to airports. Thus, the proposed project would not introduce new impacts or substantially increased impacts related to hazards and hazardous materials compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of hazards and hazardous materials is required.

4.10 Hydrology and Water Quality

General Plan EIR Findings

Hydrology and water quality is discussed in Section 3.9, *Hydrology and Water Quality*, of the General Plan EIR. The General Plan EIR determined that impacts to hydrology and water quality would be less than significant relating to violating any water quality standards or waste discharge requirements, substantially decreasing groundwater supplies or interfering substantially with

groundwater recharge, creating or contributing to runoff water which would exceed the capacity of existing or planned stormwater drainage systems, degrading water quality, and exposing people or structures to a significant risk of loss, injury or death involving flooding.

Addendum Analysis

The proposed project would result in development that would occur in the same areas as those analyzed in the General Plan EIR. Future development facilitated by the HOD would be required to adhere to General Plan actions and policies as well as Federal, State, regional, and municipal code regulations and requirements that would minimize exposure to flood-related hazards and minimize water quality impacts and impacts to wetlands resulting from new development. In addition, Milpitas is primarily built out and proposed development under the HOD would occur in previously developed areas of the city. Therefore, construction of new housing units under the HOD would not substantially increase impervious surface area, alter drainage patterns, or expose additional residents to flood-related hazards. Finally, new projects would be required to comply with Section XI-1-13.02 of the Milpitas Municipal Code, which requires a storm drainage plan and fees for all parcels of real property in the city that drain into the city storm drainage system. As a result, the proposed project would not introduce new impacts or substantially increase impacts related to hydrology and flooding compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of hydrology and water quality is required.

4.11 Land Use and Planning

General Plan EIR Findings

Land use is discussed in Section 3.10, *Land Use Planning and Population/Housing*, of the General Plan EIR. The General Plan EIR determined that impacts to land use would be less than significant as they pertain to conflicts with applicable land use plans, policies, or regulations; and physical division of an established community.

Addendum Analysis

As described in Section 1.6, *Project Description*, the HOD would result in zoning updates to parcels within the TC and NCMU zones that can be rezoned to allow residential uses or greater residential densities. The HOD would result in approximately 2,908 new units compared to existing conditions across both the TWC and NCMU land use designations. Compared to the General Plan EIR, the project would result in a net increase of 266 residential units. As shown in Table 2 and Table 3, the proposed project would allow for greater residential density compared to existing conditions.

The HOD, in and of itself, does not propose specific projects but makes updates to the General Plan and zoning code which regulate various aspects of new development in Milpitas. Because it is a policy document, the HOD would not, in and of itself, result in impacts to land use. However, policies and actions in the General Plan that were referenced in the General Plan EIR would help reduce impacts to less than significant levels. These policies and actions would be required with

implementation of the HOD. Furthermore, since most of the identified parcels within the TC and NCMU zones already contain some type of development, housing that may be built on these sites would not create a substantial change from current conditions. Therefore, with City Council adoption of the proposed land use and zoning changes the proposed project would not introduce new impacts or substantially increased impacts related to land use and planning compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of land use is required.

4.12 Mineral Resources

General Plan EIR Findings

Mineral Resources are discussed in Section 3.11, *Mineral Resources*, of the General Plan EIR. The General Plan EIR states that there are areas of Regionally Significant Construction Aggregate Resources and important mineral resources within the General Plan Planning Area and Milpitas SOI; however, development facilitated by the General Plan would be within City limits and would not be developed within an identified regional mineral resource area or mining operation. Impacts related to loss of availability of a known mineral resource and locally-important mineral resource recovery were determined to be less than significant.

Addendum Analysis

The proposed project would not include uses or activities related to mineral resources and would not introduce uses or activities to areas designated for mineral resource mining. There would be no changes to the General Plan boundaries. The proposed project would not introduce new impacts or substantially increase impacts related to mineral resources compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of mineral resources is required.

4.13 Noise

General Plan EIR Findings

Noise impacts are discussed in Section 3.12, *Noise*, of the General Plan EIR. The General Plan EIR determined that implementation of the General Plan would result in significant and unavoidable impacts regarding traffic noise on existing noise-sensitive uses in the city. Impacts due to noise from to railroad, stationary, and construction sources; construction vibration; and ground borne vibration were found to be less than significant. The General Plan EIR discusses airport land use in Section 3.8,

Hazards and Hazardous Materials, and determined that General Plan implementation is not located within an airport land use plan.

Addendum Analysis

The proposed project would increase the maximum allowable dwelling units within the NCMU and TC zones, and no new noise-sensitive land uses would be added. Furthermore, the proposed project would not alter existing General Plan policies and programs aimed at minimizing the impacts of noise sources. There would not be a significant increase in on-site stationary noise sources, such as heating, ventilation, and air conditioning equipment and systems and utility transformers, under the proposed project, as this equipment is allowed under current conditions. Additionally, development under the proposed project would result in construction noise and vibration similar to development under the General Plan EIR. The General Plan EIR identified a significant impact related to traffic noise, which was mitigated to the greatest extent feasible through General Plan policies and actions, but remained significant and unavoidable. Since the proposed project contains similar uses that would result in similar vehicle trips as those evaluated within the General Plan EIR, it would not result in new or more severe impacts related to conflicts with applicable noise standards and increases in ambient noise levels and groundborne vibration due to traffic. Policies and actions in the General Plan that were referenced in the General Plan EIR would help reduce impacts to the greatest extent possible. These policies and actions would be required with implementation of the HOD. In addition, future development facilitated by the HOD would be required to adhere to the City's municipal code, including the noise ordinance.

Therefore, the proposed project would not result in new or substantially more severe significant impacts related to conflicts with applicable noise standards compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of noise is required.

4.14 Population and Housing

General Plan EIR Findings

Population and housing are discussed in Section 3.10, *Land Use Planning and Population/Housing*, of the General Plan EIR. The General Plan EIR determined implementation of the General Plan would result in a less than significant impact relating to unplanned population growth or the displacement of people or housing. At full buildout, the proposed General Plan could accommodate a total of up to 33,401 housing units, a population of 113,530 people, 47,737,536 square feet of non-residential building square footage, and 84,333 jobs within the General Plan planning area. As shown in Table 2.0-2 of the General Plan EIR, this represents development growth over existing conditions of up to 11,186 new housing units, 37,473 people, 19,729,648 square feet of new non-residential building square footage and 36,795 jobs.

Addendum Analysis

The HOD, in and of itself, does not propose specific development projects. As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space compared to overall city buildout analyzed in the General Plan EIR. The California Department of Finance estimates that Milpitas has an average household size of 3.13 residents per unit (DOF 2023). Therefore, the likely buildout scenario under the HOD would increase the number of residents by approximately 833 compared to the General Plan EIR. This translates to a population increase of approximately 2.2 percent under the HOD compared to the General Plan EIR. Although the proposed HOD would increase residential units compared to the General Plan EIR, the State requires that all local governments adequately plan to meet the housing needs of their communities. The increase in population would allow Milpitas to provide its fair share of the regional housing, which requires the City to plan capacity for 6,713 new units. Furthermore, according to ABAG growth patterns, North and East Santa Clara County (of which Milpitas is located between) are anticipated to see growth of 199 percent and 67 percent, respectively (ABAG 2020). This accounts for roughly 21 percent of the share of regional growth for the Bay Area. Development allowed under the HOD would increase the residential buildout capacity and associated population growth compared with development analyzed under the General Plan EIR. However, non-residential development would be reduced under the HOD. As such, growth that would occur under the HOD would not be substantial or unplanned growth.

The HOD directs growth to areas located near existing commercial uses and services and on underutilized sites. Parcels in the NCMU and TCW designations that would likely be redeveloped under the HOD already contain some type of development or have been designated for future development in the General Plan. As such, potential housing under the HOD would not result in loss of existing housing in the NCMU and TC zones; rather, it would serve to develop new housing opportunities within the city. The proposed HOD would facilitate infill growth, promote housing in proximity to employment opportunities, and support regional planning efforts. In addition, the project would not involve the extension of roads or other infrastructure that could indirectly lead to population growth. The city is mostly developed and is supported by existing public services and infrastructure which are sufficient to serve the additional housing units. As such, growth that would occur under the HOD would not result in displacement of existing people or housing. Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to population and housing compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and HOD and no additional environmental assessment of population and housing is required.

4.15 Public Services

General Plan EIR Findings

Public services are discussed in Section 3.13, *Public Services and Recreation*, of the General Plan EIR. The General Plan EIR determined that implementation of the General Plan would not result in

substantial adverse physical impacts associated with new or physically altered public services facilities, including those related to fire, police, schools, parks, and libraries, and impacts would be less than significant.

Addendum Analysis

The proposed project may result in additional housing units on certain parcels, where requested by applicants and approved by the City. However, development would be allowed in the same areas as analyzed in the General Plan EIR. The proposed project would result in additional population growth, which could place additional demand on public services (i.e., fire, police, schools, recreational resources).

The proposed population growth could lead to additional demand for police and fire services. However, the increase of 833 new residents would represent a small increase over the anticipated General Plan EIR population (2.2 percent). This potential growth would be concentrated within existing urban areas where police and fire services are accessible to residents. Furthermore, the proposed project would result in a net reduction of approximately 2,840,000 square feet of non-residential space compared to the General Plan EIR which would largely offset the potential increase in demand for police and fire services. Future projects would be required to comply with the City of Milpitas Municipal Code Section V-300-2.30 which covers the cost of the Milpitas Fire Department to review and inspect the intended activities, operations, and functions. As such, it can be anticipated that the proposed project would not result in an increased demand for police and fire services which would require expansion or construction of new facilities.

Regarding schools, future projects would be subject to Senate Bill 50 school impact fees (established by the Leroy F. Greene School Facilities Act of 1998). Section 65996 of the State Government Code states that the payment of the school impact fees established by Senate Bill 50, which may be required by any state or local agency, is deemed to constitute full and complete mitigation for school impacts from development. As such, potential impacts on schools from population growth associated with the proposed project would be addressed through the payment of fees.

Future projects under the proposed project would be required to meet recreation standards through the City of Milpitas Municipal Code Section XI-1-9.06 which states that the amount of land required to be provided as park land pursuant to this section in the rest of the City shall be that figure which is the result of multiplying the project's estimated population (as calculated in Section 9.05) and 217.80 square feet (5 acres per 1,000 people). As such, future development would allow and plan for recreational and open spaces within project plans and prior to project approval.

All future development associated with the HOD would be required to pay Public Facilities Impact Fees. The purpose of Public Facilities Impact Fees is to provide funding for necessary maintenance and improvements created by development projects, including general facilities and equipment, libraries, police, parks and recreation, streets and traffic, fire, and storm drainage. Public facilities impact fees are based on the uses, the number of dwelling units, and the amount of square footage to be located on the property after completion of the development project. As such, through payment of the Public Facilities Impact Fees, the incremental demand on public services from additional growth would be addressed. Furthermore, as described in the General Plan EIR, if expansion of fire, police, school, or recreational facilities is needed to meet demand, those future facilities would undergo a development review process and be subject to environmental review pursuant to CEQA. That environmental review would identify site-specific conditions and physical changes resulting from a facility expansion, construction of a new facility, and/or infrastructure improvements needed.

For these reasons, the proposed project would not introduce new impacts or substantially increased impacts related to public services compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of public services is required.

4.16 Recreation

General Plan EIR Findings

Recreation is discussed in Section 3.13, *Public Services and Recreation*, of the General Plan EIR. The General Plan EIR determined that implementation of the General Plan would not result in substantial adverse physical impacts associated with new or physically altered recreational facilities, and impacts would be less than significant.

Addendum Analysis

As discussed above under Section 4.15, *Public Services*, future projects under the proposed project would be required to meet recreation standards through the City of Milpitas Municipal Code Section XI-1-9.06 which states that the amount of land required to be provided for new development is 5 acres per 1,000 people. Site-specific physical impacts of future park development and construction cannot be determined until future projects are proposed. The HOD, in and of itself, does not propose specific projects but updates the General Plan and updates the zoning code which regulate various aspects of new development in Milpitas. Future development facilitated by the HOD would undergo developmental review and would be evaluated for consistency with the General Plan policies and actions, State law, the City's municipal code including the dedication of land or the payment of fees and other applicable regulations. As such, the proposed project would not introduce new impacts or substantially increased impacts related to recreation compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of recreation is required.

4.17 Transportation/Traffic

General Plan EIR Findings

Transportation impacts are discussed in Section 3.14, *Transportation and Circulation*, of the General Plan EIR. The General Plan EIR determined that impacts related to conflicts with an applicable plan, ordinance, or policy addressing the circulation system including roadway, bicycle, or pedestrian facilities would be less than significant.

The General Plan EIR determined that vehicle miles travelled (VMT) generated by the residential development associated with the proposed General Plan would constitute a less than significant impact. However, the VMT impacts associated with employment-based development and employment-based uses allowed by the proposed General Plan were determined to be considered significant and unavoidable.²

The General Plan determined that General Plan implementation would not substantially increase hazards due to a geometric design feature or incompatible use or result in inadequate emergency access. Impacts would be less than significant.

Addendum Analysis

The HOD, in and of itself, does not propose specific development projects. As discussed in Section 1.6, *Project Description*, the likely buildout scenario under the HOD would result in a net increase of 266 residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to overall city buildout analyzed in the General Plan EIR. This increase of residential units would result in an incremental increase in vehicle miles traveled (VMT) from people traveling to and from their homes and employment centers. However, the proposed project would result in a net reduction of approximately 2,840,000 square feet of non-residential space compared to the General Plan EIR which would largely offset the potential increase in residential VMT.

The HOD directs growth to areas located near existing commercial uses and services and on underutilized sites. Parcels in the NCMU and TC zones that would likely be redeveloped under the HOD already contain some type of development or have been designated for future development in the General Plan. The proposed HOD would facilitate infill growth, promote housing in close proximity to employment opportunities, and support regional planning efforts. The proposed development areas would encourage multi-use residential development. The NCMU zone would encourage 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. The TC zone would encourage mixed-use residential project that integrates residential and nonresidential uses either vertically or horizontally. At its core, the HOD focuses on encouraging residential development near places of work and commercial services which encourages a reduction in VMT by making active transportation such as walking and cycling more accessible to residents. The General Plan EIR identified a significant impact related to VMT which was mitigated to the extent feasible through General Plan policies and actions but remained significant and unavoidable. Policies and actions in the General Plan that were referenced in the General Plan EIR would help reduce impacts to the extent possible. These policies and actions would be required with implementation of the HOD.

In addition, the project would not involve the extension of roads or other infrastructure that could indirectly lead to population growth. The city is mostly developed and is supported by existing roadways and transportation infrastructure which are sufficient to serve the additional housing units. Since non-vacant sites already contain some type of development, housing that may be built on these sites would not create a substantial change from current conditions. Most of the parcels identified in the HOD are in proximity to a mix of land uses, which would encourage walking and biking to commercial services such as restaurants, shops, and grocery stores. Therefore, rather than conflicting with transportation policies and plans, the HOD would support implementation of these

² Guidance provided by the California Governor's Office of Planning and Research (OPR) in the publication *Transportation Impacts (SB 743) CEQA Guidelines Update and Technical Advisory*, 2018, was used to evaluate VMT. After the General Plan EIR was certified, the Milpitas City Council adopted the SB 743 VMT policy on May 18, 2021 and guidelines are established in the *City of Milpitas Transportation Analysis Guidelines* (City of Milpitas 2022).

plans by accommodating non-vehicular travel, thereby reducing VMT. Future development facilitated by HOD would be required to comply with applicable regulations and plans related to roadway design standards and emergency access including the City's municipal code, and General Plan policies and actions.

Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to transportation compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of transportation is required.

4.18 Tribal Cultural Resources

General Plan EIR Findings

Tribal cultural resources are discussed in Section 3.5, *Cultural Resources*, of the General Plan EIR. The General Plan EIR determined that impacts to tribal cultural resources would be less than significant.

During the 2016 General Plan update process, the City sent SB 18 Tribal consultation letters to eight Tribal Organizations including the Native American Heritage Commission, Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the SF Bay Area, North Valley Yokuts, Ohlone Indian Tribe, and the Milpitas Historical Society via certified mail. Follow up letters were sent on June 23, 2020, during the NOP comment period to all tribes identified in the EIR. No responses had been received when the EIR was prepared.

Regarding tribal consultation pursuant to AB 52, City staff noted that no tribes have requested the City of Milpitas notify them through a formal notification process of proposed projects requiring the preparation of a negative (mitigated) declaration or EIR; therefore, no AB 52 tribal notification letters were sent out for the General Plan update.

Addendum Analysis

On March 15, 2024, the City sent letters to nine Tribal Organizations pursuant to SB 18: Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the SF Bay Area, North Valley Yokuts Tribe, The Ohlone Indian Tribe, Wuksache Indian Tribe/Eshom Valley Band, The Confederated Villages of Lisjan, and Tamien Nation. No consultation has been requested at the time of publication of this document. Tribal responses, if any, would be considered by the City and incorporated as part of the final project approvals. Further, the areas considered as part of the proposed project were analyzed under the General Plan EIR and for which tribal consultation as required by SB 18 for the General Plan EIR was also completed and for which an opportunity to consult and address potential impacts was provided. No previously unidentified tribal cultural resources within the city have been identified during consultation, nevertheless, future development facilitated by the HOD would be required to comply with applicable State regulations including the City's municipal code, and General Plan policies and actions. Therefore, the proposed project would not introduce new impacts

or substantially increased impacts related to tribal cultural resources compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of utilities is required.

4.19 Utilities and Service Systems

General Plan EIR Findings

Utilities and services systems are discussed in Section 3.15, *Utilities and Service Systems*, of the General Plan EIR. The General Plan EIR determined that General Plan implementation would result in sufficient water supplies available to serve the City and the impacts related to construction of new water treatment facilities or expansion of existing facilities would be less than significant. The General Plan EIR further determined that impacts related to wastewater treatment capacity, the relocation or construction of new or expanded wastewater facilities, and the relocation or construction of new or expanded storm water drainage facilities would be less than significant.

The General Plan EIR determined that General Plan implementation would comply with federal, state, and local management and reduction statutes and regulations related to solid waste and would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. Impacts were determined to be less than significant.

The General Plan EIR stated that future development would be required to connect to existing water distribution infrastructure, pay the applicable water system connection fees and water usage rates, and demonstrate how storm water runoff will be detained or retained on-site and/or conveyed to the nearest drainage facility as required by the City's NPDES Municipal Regional Permit.

Addendum Analysis

The proposed project could result in a net increase of up to 266 new residential units and a net reduction of approximately 2,840,000 square feet of non-residential space overall compared to the General Plan EIR. Population growth resulting from development allowed under the proposed project would increase demand for utilities including water, wastewater, natural gas, electricity, telecommunications, and solid waste.

Population growth resulting from residential development under the proposed project would incrementally increase demand for municipal facilities. However, this increased demand would be incremental, and partially offset by the proposed reduction of approximately 2,840,000 square feet of non-residential space compared to the General Plan EIR. Additionally, increased demand associated with population growth under the proposed project would be further offset by the project's reduction in non-residential space. The HOD would allow for denser residential development within the NCMU and TC zones, which would promote greater overall efficiency in community and municipal operations. All potential parcels within both zoning districts are located within the city limits and urbanized areas where existing infrastructure is already present.

Future development facilitated by the HOD would be required to adhere to Federal, State, regional, and City regulations, General Plan actions and policies, and the City's municipal code including applicable fees and NPDES permits. The project would not therefore require the expansion or relocation of these facilities such that significant environmental effects would occur. Therefore, the proposed project would not introduce new impacts or substantially increased impacts related to utilities and service systems compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of utilities is required.

4.20 Wildfire

General Plan EIR Findings

Wildfire is discussed in Section 3.16, *Wildfires*, of the General Plan EIR. The General Plan EIR determined that there are some State Responsibility Areas to the east of the city limits within the SOI. However, there are no State Responsibility Areas within the city limits of Milpitas, and there are no "Very High Fire Hazard" areas within the Milpitas SOI. The General Plan EIR determined that impacts would be less than significant regarding adopted emergency response plan or emergency evacuation plan, hazards due to flooding or landslides, the installation or maintenance of associated infrastructure that may exacerbate fire risk. The General Plan EIR further determined that General Plan implementation would not exacerbate wildfire risks, or thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire and impacts would be less than significant.

Addendum Analysis

None of the potential parcels identified within the TC or NCMU zones are located within a State Responsibility or Very High Fire Hazard Severity Zone (VHFSZ) (California Department of Forestry and Fire Protection 2007). The closest mapped VHFSZ is located over four miles southeast near Alum Rock Park; thus, sites where housing is encouraged by the HOD are not near a VHFSZ. In addition, the immediate surrounding area to where districts are located is developed with urban land uses and is generally level. The proposed project may result in additional housing units on certain parcels. However, development would still occur in the same areas as analyzed in the General Plan. Moreover, since the new housing would be located within areas with existing connections to transit and utilities, they would not require the installation of new infrastructure such as roads, which could exacerbate fire risk. Applications for development would be reviewed by the Milpitas Fire Department for compliance with applicable emergency response plans and requirements to reduce fire hazards. Future development facilitated by the HOD would be required to adhere to any Federal, and State and regulations, including the California Building Code, and California Fire Code, Public Resources Code Section 4292, Public Resources Code Section 4293, and Title 14, Section 1104.1(d) of the California Code of Regulations. Future development would also be required to comply with General Plan actions and policies, Zoning Ordinance, and the City's municipal code, including Title 5 – Public Health, Safety and Welfare (Chapter 300 Fire Code).

Therefore, the proposed project would not introduce new impacts or substantially increase impacts related to wildfire compared to those identified in the General Plan EIR.

Conclusion

The HOD would not result in new impacts not addressed or analyzed in the General Plan EIR nor present new information that indicates that impacts would be more significant than those described in the General Plan EIR. Therefore, the impacts of the HOD would be within the scope of the General Plan EIR and no additional environmental assessment of wildfire is required.

5 Summary of Findings

The City of Milpitas, acting as the lead agency, determined that an addendum is the appropriate environmental document under CEQA because the proposed project would not require revisions to the certified General Plan EIR due to the involvement of new significant environmental effects or substantial increases in the severity of significant effects previously identified in the General Plan EIR.

There are no changed circumstances or new information that meets the standards for requiring further environmental review under *CEQA Guidelines* Section 15162. Thus, these circumstances and information would not result in new or more severe impacts beyond what were addressed in the General Plan EIR and would not meet any other standards under *CEQA Guidelines* Section 15162(a)(3). No additional analysis is required based on the discussions throughout this addendum. The proposed Housing Opportunity District Project would not involve development in areas not assumed for development in the General Plan EIR. The project would not result in significant or substantially more severe impacts that were not discussed in the General Plan EIR. Also, there are no previously identified significant effects which, as a result of substantial new information that was not known at the time of the previous environmental review, would be substantially more severe than discussed in the General Plan EIR. Accordingly, no additional CEQA review is required.

CEQA Guidelines Section 15164 states that “[t]he lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in *CEQA Guidelines* Section 15162 calling for preparation of a subsequent EIR have occurred.” An addendum is therefore appropriate because, as explained above, none of the conditions calling for preparation of a subsequent EIR have occurred.

6 References

6.1 Bibliography

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6.2 List of Preparers

Rincon Consultants, Inc. prepared this Addendum under contract to the City of Milpitas. Persons involved in data gathering analysis, project management, and quality control are listed below.

RINCON CONSULTANTS, INC.

Abe Leider, AICP CEP, Principal-in-Charge
 Gianna Meschi, Project Manager
 Amber McEldowney, Environmental Planner

NOTES:

New text that applies to NCMU and TC zones in **BLACK**.
Text that applies only to other mixed-use zones in **GREY**.

Updated General Plan Designations follow Zones and standards.

Section 6 Mixed Use Zones and Standards*

* Prior ordinance history: Ords. 38, 38.18, 38.19, 38.22, 38.207, 38.339, 38.687, 38.702, 38.761, 38.763 and 38.776.

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 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 with commercial uses as the primary ground floor use.
 - 2. NCMU2 allows commercial or mixed-use development with some commercial uses required on the ground floor.
 - 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 commercial uses as the primary ground floor use.
2. TC2 allows commercial or mixed-use development with some commercial uses required on the ground floor.
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.

(Ord. No. 38.803, § 7, 4/17/12; Ord. 38.777 (8) (part), 6/17/08)

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.

2. Accessory Uses.

- a. 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:
1. Uses where the symbol "NP" appears within Table 6.02-1.
 2. The following uses are not permitted in any mixed use zone:
 - a. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
 - b. Disinfecting and extermination business.
 - c. 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.
 - d. Outdoor storage of vehicles.
 - e. Private self-storage facilities
 - f. Single family detached dwellings
 - g. Two family dwelling units
 - h. Drive through uses (restaurants, pharmacies, etc.)
- 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			
1. Commercial Uses						
Alcohol beverage sales	C	C	C	C	C	C
Business support services ¹	P/NP ²	P/NP ²	NP	P/NP ²	P/NP ²	MC
Grocery stores (supermarkets) ³	C	C	C	C	P	P
Pawnshops ⁴	C	C	C	C	NP	NP
Personal services ^{1, 5}	P	P	P	P	P	P
Pet shops	C	NP	NP	NP	NP	P
Repair and cleaning shop, small items ¹	P	P	P	MC	MC	P
Retail stores, general merchandise ⁶	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
2. Entertainment and Recreation						
Commercial athletic facilities	P	P	P	P	MCS in NCMU1	P

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"Theaters (Indoor)"						
Recreation or entertainment facility	C	C	C	C	NP	C
3. Health and Veterinarian Uses						
Animal grooming (no boarding)	P	P	NP	P	NP	P
Hospitals or sanitariums ²	C	C	C	C	NP	C
Massage establishment ⁸	MC	MC	MC	MC	MC	MC
Massage establishment, accessory ⁸	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
4. Lodging						
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
5. Professional Offices, Financial Institutions and Related Uses						
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P	P	P
Offices, business and professional ⁶	MCS	NP	MCS	P	C	P
6. Public/Quasi Public and Assembly Uses						
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 ⁶	P	NP	NP	NP	P	P
Private	P	P	P	P	P	P
Park, playground or community center ¹⁰	O	O	O	O	O	O

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Commented [HP1]: There's no definition for "Day care school," so I am not sure how it differs from "Child care center."

Commented [JL2R1]: I asked around and no one seems to know the distinction. Interestingly, "Day care school" is also in the commercial zoning districts, but not the residential. I'll keep looking into this.

Commented [AS3R1]: We have used Day Care School to encompass adult or other physical/mental disability centers that provide care services non-24 hr.

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Places of assembly ²	C	C	C	C	<u>C</u>	<u>C</u>
Public utilities	C	C	C	C	<u>C</u>	<u>C</u>
Schools, private (elementary, middle and high) ⁵	C	C	C	C	<u>C</u>	<u>C</u>
Theaters (Indoor)	C	C	C	C	NP	<u>C</u>
Trade and vocational schools ⁷	C	C	C	C	NP	<u>C</u>
Transportation facilities ⁴	C	C	C	C	NP	<u>C</u>
7. Residential Uses						
Multi-family housing ¹¹	P	NP ¹²	P	P	p ¹²	<u>P</u>
Transitional and supportive housing ¹¹	P	NP ¹²	P	P	p ¹²	<u>P</u>
Accessory Dwelling Unit ¹⁴	P	NP	P	P	<u>P</u>	<u>P</u>
8. Restaurants or Food Service						
Bar or nightclub	C ¹⁵	C ¹⁵	C	C ¹⁵	<u>C¹⁵</u>	<u>C</u>
Brewery/Eateries	MCS	MCS	NP	MCS	<u>MCS</u>	<u>MCS</u>
Catering establishments	C	C	C	C	NP	<u>P</u>
Restaurants ⁴	P/C	P/C	NP	P/C	<u>P/C</u>	<u>P</u>
With music (indoor/outdoor)	P ¹⁵	P ¹⁵	NP	P ¹⁵	<u>P¹⁵</u>	<u>P</u>
With other live entertainment/dancing	C	C	NP	C	<u>C</u>	<u>C</u>
Mobile Food Vending (individual vehicle) ¹⁶	P	P	NP	P	<u>P</u>	<u>P</u>
Mobile Food Park ¹⁶	MC	NP	NP	MC	NP	<u>MC</u>
Commissary	MC	NP	NP	MC	NP	<u>MC</u>
9. Unclassified Uses						
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops ⁴	MCS	MCS	MCS	MCS	<u>MCS</u>	<u>MCS</u>
Lobbies and entries for upper floor uses	P	P	NP	P	<u>P</u>	<u>P</u>
Model home complex ¹⁷	P	P	P	P	<u>P</u>	<u>P</u>
Mixed use developments ¹⁸	P	P	P	P	<u>P</u>	<u>P</u>
Planned Unit Development ¹⁹	P	P	P	P	<u>P</u>	<u>P</u>
Temporary seasonal sales ²⁰	P	P	P	P	<u>P</u>	<u>P</u>
Short-Term Rentals ²¹	P	NP	P	P	<u>P</u>	<u>P</u>
10. Vehicle-Related Repair, Sales and Services						
Auto sales and rental ²²	C	C	C	C	NP	<u>NP</u>
Auto broker (wholesale, no vehicles on site) ⁴	MCS	MCS	MCS	MCS	NP	<u>MCS</u>
Vehicle service uses ²³	C	NP	NP	C	NP	<u>C</u>

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

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Commented [HP4]: FYI - as part of Phase 1 of the comp. zoning update (to be adopted prob. in late March or early April), we're proposing a new definition for "Auto repair shop" and a new definition for "Service station," which

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² 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.

³ 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.

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

⁵ 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.

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

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

⁸ 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.

⁹ Reserved

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

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

¹² 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.

¹³ Only allowed within multi-family dwellings, subject to the requirements of Subsection XI-10-13.08, Accessory Dwelling Units, of this Chapter.

¹⁴ 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.

¹⁵ Refer to Subsection XI-10-13.18, Mobile Food Vending, of this Chapter.

¹⁶ Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

¹⁷ Which include only permitted uses.

¹⁸ Refer to Section XI-10-54.07, Planned Unit Developments, of this Chapter, for standards.

¹⁹ Refer to Section XI-10-13.11(D), Temporary Seasonal Sales, of this Chapter.

²⁰ Only allowed within a dwelling unit, subject to the requirements of Subsection XI-10-13.17, Short-Term Rentals, of this Chapter.

²¹ 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.

²² 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.

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Commented [CS7R6]: I think this will need to be corrected in the final?

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Commented [KP8]: Potentially clarify in this footnote, ADUs not allowed for STRs (sigh unless this changes w/ the potential option the City has to allow ADU sales and other State law changes) I know it might state this in other sections of the code, but sometimes public members get pesky

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Commented [HP9]: Update this language to reflect the new definitions "Auto repair show" and "Service station" (see my comment on "Vehicle service uses" at the very bottom of the use table, p.8).

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:

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- 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 active, neighborhood-serving commercial uses at the ground level, and may include residential units on upper floors. ~~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 ~~5~~5 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

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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.
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.

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(Ord. No. 38.840, § 5, 6/16/20; Ord. No. 38.835, § 6, 3/3/20; Ord. No. 38.839, § 8, 12/3/19; Ord. No. 38.829, § 3, 6/6/17; Ord. No. 38.822, § 3, 5/5/15; Ord. No. 38.810, § 6, 12/3/13; Ord. No. 38.803, § 7, 4/17/12; Ord. No. 38.795, § 22, 4/6/10; Ord. 38.784 (1)–(3), 12/16/08; Ord. 38.780 (10)–(17), 8/19/08; Ord. 38.777 (8) (part), 6/17/08)

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.

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(Ord. No. 38.803, § 7, 4/17/12; Ord. 38.777 (8) (part), 6/17/08)

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) ¹	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	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

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Yard Setback, Minimum			Street-Side Yard Setbacks, of this chapter.
Interior-Side Yard Setback, Minimum ²	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 ³	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 ⁴	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.

¹ For MXD3 properties, density may be averaged over contiguous parcels.

² 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.

³ See Note 2 above.

Commented [HP10]: Currently there's an error in the code - it refers to 6.04 (F), but it should be (E)

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⁴ 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) ¹	Maximum: 65 du/ac	Maximum: 65 du/ac	Minimum: 30 du/ac Maximum: 65 du/ac
Front and Street-Side Yard Setback, Minimum	<u>10' Residential</u> <u>0' Commercial</u>	<u>10' Residential</u> <u>0' Commercial</u>	<u>10' Residential</u> <u>0' Commercial</u>
Interior-Side Yard Setback, Minimum ²	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 ³	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	0.25 min. 0.75 max.	0.10 min. 0.75 max.	No min. commercial FAR 0.75 max.
Building Height	75' or 6 stories	75' or 6 stories	75' or 6 stories
Landscaping	Refer to Section 6.04(G), Landscaping.	<u>Refer to Section 6.04(G), Landscaping.</u>	<u>Refer to Section 6.04(G), Landscaping.</u>
Parking	Refer to Section 6.04 (H) Parking.	<u>Refer to Section 6.04 (H) Parking.</u>	<u>Refer to Section 6.04 (H) Parking.</u>

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¹ For NCMU3 properties, density may be averaged over contiguous parcels.

² 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.

³ 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) ¹	Maximum: 55 du/ac	Maximum: 55 du/ac	Minimum: 30 du/ac Maximum: 55 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 ²	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 ³	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	0.35 min. 0.85 max.	0.10 min. 0.85 max.	No min. commercial FAR 0.85 max.
Building Height ⁴	75' or 6 stories	75' or 6 stories	75' or 6 stories

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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.

¹ For TC3 properties, density may be averaged over contiguous parcels.

² 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.

³ See Note 2 above.

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

1. MXD Standards.

- The minimum number of multi-family residential units may be reduced for parcels less than 20,000 square feet.
- 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.

- The minimum number of multi-family residential units may be reduced for parcels less than 20,000 square feet.
- Units with four bedrooms shall be counted as 1.5 units when calculating density.
- 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.

- Units with four bedrooms shall be counted as 1.5 units when calculating density.
- 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.

- [Residential](#) units with four bedrooms shall be counted as 1.5 units when calculating density.

5. TC1, TC2, and TC3 standards

- [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.

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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.

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Deleted: 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.

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- 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.

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- 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.

F. 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 (3½) acres per one thousand (1,000) population. Up to one and one-half (1½) of each three and one-half (3½) 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,

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Commented [KP12]: Hmm not sure if we should take this opportunity to update w/ Metro (global comment for this section) but may want to check with kevin on status update on those metro fees

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).
 - ii. **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 and open spaces provided to meet the requirement below may be counted towards the park land requirement above.
 - iii. **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.

H. Parking

Commented [KP13]: Hmm maybe run this section by Rec/Park staff based on recent DRC interactions they seem to want more involvement? I don't know if any of this needs some type of nexus study and whatnot

Commented [JL14R13]: No need to outline the routing procedure here but yes let's check in with them on any deviation from our standard requirements for these areas.

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Deleted: ii. Up to two (2) of each five (5) total park acres required (40%) may be satisfied by the provision of private recreational areas. Private open space cannot be shared between separate developments. ¶

Park Land. For 100% affordable developments in the NCMU and TC zones shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population. ¶

Two (2) of the required three and one-half (3.5) Park Land 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. ¶

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1. Areas designated NCMU and TC

- a. The number of parking spaces required for residential uses shall be 1 space per unit.
- b. The 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.

Commented [HP23]: We may want to consider moving this little section to XI-10-53: Off-Street Parking Regulations. That is what we did for the new Metro Zones - added a new subsection to the main Off-Street Parking section that includes the special parking standards for the Metro zones. Would be good to maintain consistency. See proposed revisions to XI-10-53 here:
[S:\PLANNING DIVISION1\Comprehensive Zoning Ordinance Update\5 - General Plan Consistency_New Zoning Districts\Public Review Draft New Zoning Districts\New Zones \(Excerpted\)\Public Draft_Off-Street Parking Requirements.pdf](#)

<i>Mixed Use buildings or sites</i>		
Residential use		
Studio	1 covered per unit	
1 bedroom	<u>1</u> covered per unit	
2—3 bedrooms	<u>1</u> covered per unit	
4 or more bedrooms	<u>1</u> per unit, plus 1 additional space for each additional bedroom (at least 1 covered). ⁴	
<u>Guest parking for residential</u>		
Projects with Parking structures	<u>10%</u> of the total required, may be uncovered	
Projects with Private garages	<u>10%</u> of the total required, may be uncovered	
Bicycle parking	<u>5%</u> of total required	
Commercial use		
Ground Floor Retail	1 per <u>300</u> sq. ft.	
Office	<u>1</u> per <u>300</u> sq. ft.	
<u>Restaurants</u>	<u>1</u> per <u>300</u> sq.ft.	
Short-Term Rentals	1 per unit	
Other uses	Refer to specific uses within this table	

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Commented [HP24]:for each additional bedroom above what threshold? Above 4? Does this mean 1 parking space for a 4-bedroom unit, 2 spaces for a 5-bedroom unit, 3 spaces for a 6-bedroom unit, etc.?

(realistically, though, no one is going to build a 5+ bedroom unit in NCMU or TC, like, EVER....)

Commented [JL25R24]: Your interpretation is correct, but agree that we aren't ever going to see that many bedrooms in these areas.

Commented [CS26R24]: This is just using the existing parking table and modifying the front numbers.

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Deleted: If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.

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Bicycle parking	5% of total 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

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Ord. No. 38.828, §§ 2, 3, 2/21/17; Ord. No. 38.803, § 7, 4/17/12; Ord. No. 38.785, § 5, 4/7/09; Ord. 38.777 (6) (part), 6/17/08)

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XI-10-6.05 Reserved

Editor's note(s)—Ord. No. 38.785, § 6, adopted April 7, 2009, amended the Code by repealing former § XI-10-6.05 in its entirety. Former § XI-10-6.05 pertained to off-street vehicle and bicycle parking, and derived from Ord. 38.777, adopted June 17, 2008.

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 area 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.

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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.

(Ord. No. 38.803, § 7, 4/17/12; Ord. 38.777 (8) (part), 6/17/08)

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.

(Ord. No. 38.803, § 7, 4/17/12; Ord. 38.777 (8) (part), 6/17/08)

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.

(Ord. No. 38.803, § 7, 4/17/12; Ord. No. 38.795, § 23, 4/6/10)

GP Definitions

NCMU

Current GP Designation:

The Neighborhood Commercial Mixed-Use (NCMU) designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use, and residential uses, hotel, and office development allowed on a limited basis. 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 0.75.

This designation also provides opportunities for vertical or horizontal mixed-use residential development to provide for area vibrancy and to encourage the redevelopment of aging commercial centers by allowing Multifamily dwelling units at a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-serving retail and commercial services. The City Council may consider the approval of residential-only projects in the NCMU land use designation, provided the project is 100% affordable to the “low” and “very low” income categories, in order to increase the stock of affordable housing in Milpitas.

Projects with a residential component are subject to additional policy direction (Policy LU 6-1) to ensure that NCMU areas continue to primarily serve surrounding neighborhoods with commercial services.

Proposed GP Designation

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 0.75.

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 multifamily dwelling units up to 65 dwelling units per acre for mixed-use and residential only projects. Redevelopment of larger neighborhood commercial centers shall provide a minimum of 0.25 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. The residential only developments do not require any minimum non-residential FAR.

Town Center GP Designation

Existing GP Designation

This 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 horizontally. Residential-only projects are not permitted. Residential developments up to 40 units per acres may be permitted within the Town Center as

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Deleted: Projects with a residential component are subject to additional policy direction (Policy LU 6-1) to ensure that NCMU areas continue to primarily serve surrounding neighborhoods with commercial services.¶

part of a mixed use development project to increase economic support to the commercial uses. Developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component. Sites developed with a mix of uses, or non-residential uses, must adhere to a FAR maximum of up to 0.85.

Proposed GP Designation

The Town Center (TWC) designation provides for a variety of commercial, professional, civic, restaurants, hotels, residential, and entertainment uses in a vertical and horizontal mix-use neighborhood. Residential developments up to 55 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 and a minimum of 0.10 FAR of non-residential ground floor uses is required along major streets. All non-residential development must adhere to a FAR maximum of up to 0.85.

Existing Commercial Centers Policy LU-6 Language

Ensure new development in Neighborhood Commercial Mixed Use (NCMU) areas includes adequate commercial components to retain commercial uses as the dominant use type, and that the redevelopment of aging centers results in no net loss of viable commercial space. The City Council may consider opportunities to waive commercial requirements in mixed use areas for 100% affordable projects that increase the affordable housing stock within Milpitas for “very low income” and “low income” categories.

Proposed Policy LU-6 Language

Ensure new development in Neighborhood Commercial Mixed Use (NCMU) areas includes adequate commercial components. ~~to retain commercial uses as the dominant use type, and that the redevelopment of aging centers results in no net loss of viable commercial space.~~ The City Council may consider opportunities to waive commercial requirements in mixed use areas for 100% affordable projects that increase the affordable housing stock within Milpitas for “very low income” and “low income” categories.

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- Deleted:** 40
- Deleted:** may be
- Deleted:** as part of a mixed-use development projects
- Deleted:** s
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- Deleted:** Developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component. Sites developed with a mix of uses, or solely non-residential uses,
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Exhibit "A" General Plan Amendment

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
GENERAL PLAN 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) 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 April 24, 2024, the Planning Commission held a duly noticed public hearing, during which meeting the Planning Commission by adoption of Resolution No. 24-015, recommending that the City Council: 1) approve general plan text amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions; 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

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 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, per Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council likewise finds that the General Plan 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, The HOD project these amendments effectuate represents 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; 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 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 Text Amendment is found to be internally consistent with those portions of the General Plan which are not being amended. The amendment does not introduce any conflicts or inconsistencies with the existing goals, policies, or programs of the General Plan. Instead, it builds 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.

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

The proposed General Plan Text Amendment is found to be consistent with the overall planning objectives and goals of the City of Milpitas. 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. The amendment is to enable the City to modify its current Mixed Use Designations to prioritize the preservation of existing neighborhoods, channeling new housing growth to specific areas, and revitalizing some of the older neighborhood-serving commercial land uses that support citywide community goals outlined in the Milpitas 2040 General Plan, 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. 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 55 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 in a vertical and horizontal mix-use neighborhood. Residential developments up to 55 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 and a minimum of 0.10 FAR of non-residential ground floor uses is required along major streets. All non-residential development 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 0.75, AND UP TO 65 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 0.75.

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 multifamily dwelling units up to 65 dwelling units per acre for mixed-use and residential only projects. Redevelopment of larger neighborhood commercial centers shall provide a minimum of 0.25 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. Where permitted, residential only developments do not require any minimum non-residential FAR.

Projects with a residential component are subject to additional policy direction (Policy LU 6-1) to ensure that NCMU areas continue to primarily serve surrounding neighborhoods with commercial services.

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. The City Council may consider opportunities to waive commercial requirements in mixed use areas for 100% affordable projects that increase the affordable housing stock within Milpitas for “very low income” and “low income” categories.

SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The adoption of this Resolution 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. Based on its independent review and consideration, the City Council hereby finds that the Addendum complies with the requirements of CEQA and adopts the conclusions in the Addendum on the basis of the evidence and reasoning set forth therein.

SECTION 6. 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 7. CITY COUNCIL APPROVAL

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

PASSED AND ADOPTED this _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Exhibit "B" 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:

Michael Mutalipassi, City Attorney

Exhibit “B” 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 April 24, 2024, 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, on April 24, 2024, the Planning Commission held a duly noticed public hearing, during which meeting the Planning Commission by adoption of Resolution No. 24-015, recommending that the City Council: 1) approve general plan text amendment No. GP24-0001 to change the description of the Town Center (TWC) and Neighborhood Commercial Mixed-Use (NCMU) descriptions; 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

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, 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

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 impose it as a condition of project approval; and

Exhibit “B” Zoning Map and Text Amendment

WHEREAS, The HOD project these amendments effectuate represents 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.

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

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 the General Plan Policy LU 6-6 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 establishes 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. Policy LU 6-5 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

Exhibit “B” Zoning Map and Text Amendment

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 City's consultants, the Project and 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 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 with commercial uses as the primary ground floor use.
 - 2. NCMU2 allows commercial or mixed-use development with some commercial uses required on the ground floor.
 - 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 commercial uses as the primary ground floor use.
 2. TC2 allows commercial or mixed-use development with some commercial uses required on the ground floor.
 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.

2. Accessory Uses.

- a. 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:
1. Uses where the symbol "NP" appears within Table 6.02-1.
 2. The following uses are not permitted in any mixed use zone:
 - a. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
 - b. Disinfecting and extermination business.
 - c. 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.
 - d. Outdoor storage of vehicles.
 - e. Private self-storage facilities
 - f. Single family detached dwellings
 - g. Two family dwelling units
 - h. Drive through uses (restaurants, pharmacies, etc.)
- 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			
1. Commercial Uses						
Alcohol beverage sales	C	C	C	C	C	C
Business support services ¹	P/NP ²	P/NP ²	NP	P/NP ²	P/NP ²	MC
Grocery stores (supermarkets) ³	C	C	C	C	P	P
Pawnshops ⁴	C	C	C	C	NP	NP
Personal services ^{1, 5}	P	P	P	P	P	P
Pet shops	C	NP	NP	NP	NP	P
Repair and cleaning shop, small items ¹	P	P	P	MC	MC	P
Retail stores, general merchandise ⁶	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
2. Entertainment and Recreation						
Commercial athletic facilities	P	P	P	P	MCS in NCMU1	P
“Theaters (Indoor)”						

Recreation or entertainment facility	C	C	C	C	NP	C
3. Health and Veterinarian Uses						
Animal grooming (no boarding)	P	P	NP	P	NP	P
Hospitals or sanitariums ⁷	C	C	C	C	NP	C
Massage establishment ⁸	MC	MC	MC	MC	MC	MC
Massage establishment, accessory ⁸	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
4. Lodging						
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
5. Professional Offices, Financial Institutions and Related Uses						
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P	P	P
Offices, business and professional ⁶	MCS	NP	MCS	P	C	P
6. Public/Quasi Public and Assembly Uses						
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 ⁶	P	NP	NP	NP	P	P
Private	P	P	P	P	P	P
Park, playground or community center ¹⁰	O	O	O	O	O	O
Places of assembly ⁷	C	C	C	C	C	C
Public utilities	C	C	C	C	C	C
Schools, private (elementary, middle and high) ⁵	C	C	C	C	C	C

Theaters (Indoor)	C	C	C	C	NP	C
Trade and vocational schools ⁷	C	C	C	C	NP	C
Transportation facilities ⁴	C	C	C	C	NP	C
7. Residential Uses						
Multi-family housing ¹¹	P	NP ¹²	P	P	P ¹²	P
Transitional and supportive housing ¹¹	P	NP ¹²	P	P	P ¹²	P
Accessory Dwelling Unit ¹⁴	P	NP	P	P	P	P
8. Restaurants or Food Service						
Bar or nightclub	C ¹⁵	C ¹⁵	C	C ¹⁵	C ¹⁵	C
Brewery/Eateries	MCS	MCS	NP	MCS	MCS	MCS
Catering establishments	C	C	C	C	NP	P
Restaurants ⁴	P/C	P/C	NP	P/C	P/C	P
With music (indoor/outdoor)	P ¹⁵	P ¹⁵	NP	P ¹⁵	P ¹⁵	P
With other live entertainment/dancing	C	C	NP	C	C	C
Mobile Food Vending (individual vehicle) ¹⁶	P	P	NP	P	P	P
Mobile Food Park ¹⁶	MC	NP	NP	MC	NP	MC
Commissary	MC	NP	NP	MC	NP	MC
9. Unclassified Uses						
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops ⁴	MCS	MCS	MCS	MCS	MCS	MCS
Lobbies and entries for upper floor uses	P	P	NP	P	P	P
Model home complex ¹⁷	P	P	P	P	P	P
Mixed use developments ¹⁸	P	P	P	P	P	P
Planned Unit Development ¹⁹	P	P	P	P	P	P
Temporary seasonal sales ²⁰	P	P	P	P	P	P
Short-Term Rentals ²¹	P	NP	P	P	P	P
10. Vehicle-Related Repair, Sales and Services						
Auto sales and rental ²²	C	C	C	C	NP	NP
Auto broker (wholesale, no vehicles on site) ⁴	MCS	MCS	MCS	MCS	NP	MCS
Vehicle service uses ²³	C	NP	NP	C	NP	C

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

² 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.

³ 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.

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

⁵ 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.

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

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

⁸ 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.

⁹ Reserved

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

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

¹² 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.

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

¹⁵ 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.

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

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

¹⁸ Which include only permitted uses.

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

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

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

²² 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.

²³ 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 active, neighborhood-serving commercial uses at the ground level, and may include residential units on upper floors. 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) ¹	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 ²	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 ³	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 ⁴	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.

¹ For MXD3 properties, density may be averaged over contiguous parcels.

² 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.

³ See Note 2 above.

⁴ 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) ¹	Maximum: 65 du/ac	Maximum: 65 du/ac	Minimum: 30 du/ac Maximum: 65 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 ²	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 ³	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	0.25 min. 0.75 max.	0.10 min. 0.75 max.	No min. commercial FAR 0.75 max.
Building Height	75' or 6 stories	75' or 6 stories	75' or 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.

¹ For NCMU3 properties, density may be averaged over contiguous parcels.

² 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.

³ 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) ¹	Maximum: 55 du/ac	Maximum: 55 du/ac	Minimum: 30 du/ac Maximum: 55 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 ²	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 ³	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	0.35 min. 0.85 max.	0.10 min. 0.85 max.	No min. commercial FAR 0.85 max.
Building Height	75' or 6 stories	75' or 6 stories	75' or 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.

¹ For TC3 properties, density may be averaged over contiguous parcels.

² 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.

³ See Note 2 above.

- 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 of 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 (3½) acres per one thousand (1,000) population. Up to one and one-half (1½) of each three and one-half (3½) 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 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.

H. Parking

- 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.

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). ⁴
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 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 area 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 1, 2, 3, and 4** and separately listed in **Exhibit 5**.

SECTION 4. 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. Based on its independent review and consideration, the City Council hereby finds that the Addendum complies with the requirements of CEQA and adopts the conclusions in the Addendum on the basis of the evidence and reasoning set forth therein.

SECTION 5. SEVERABILITY

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

SECTION 6. EFFECTIVE DATE AND POSTING

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

Exhibit 1: Proposed NCMU Zones at Calaveras Blvd

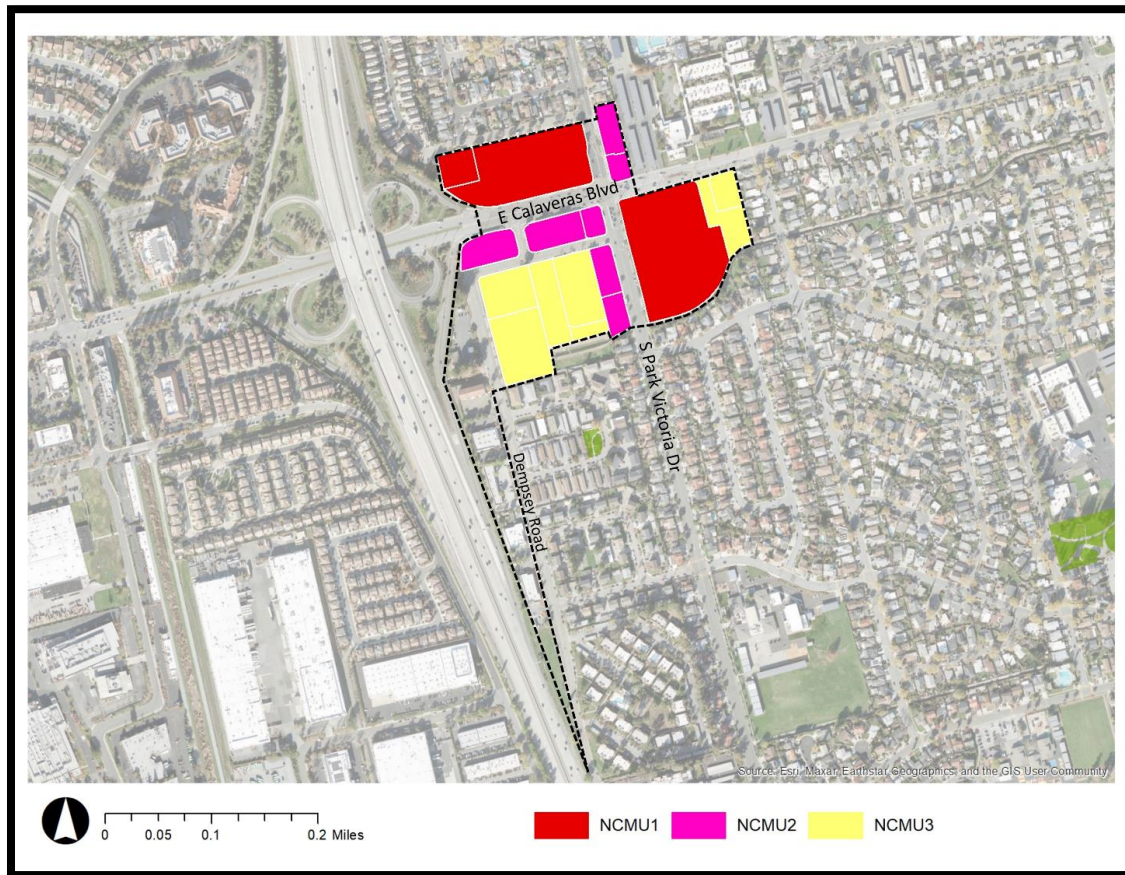


Exhibit 2: Proposed NCMU Zones at Landess Ave

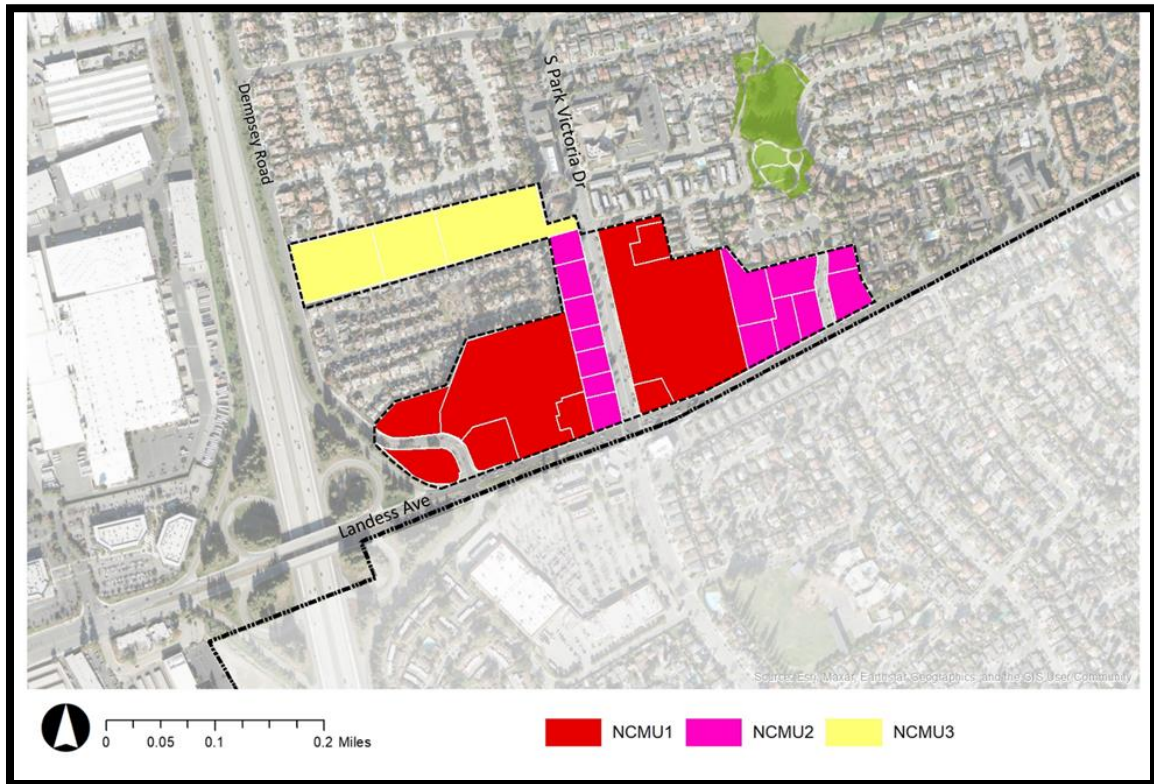


Exhibit 3: Proposed NCMU Zones at Dixon Rd

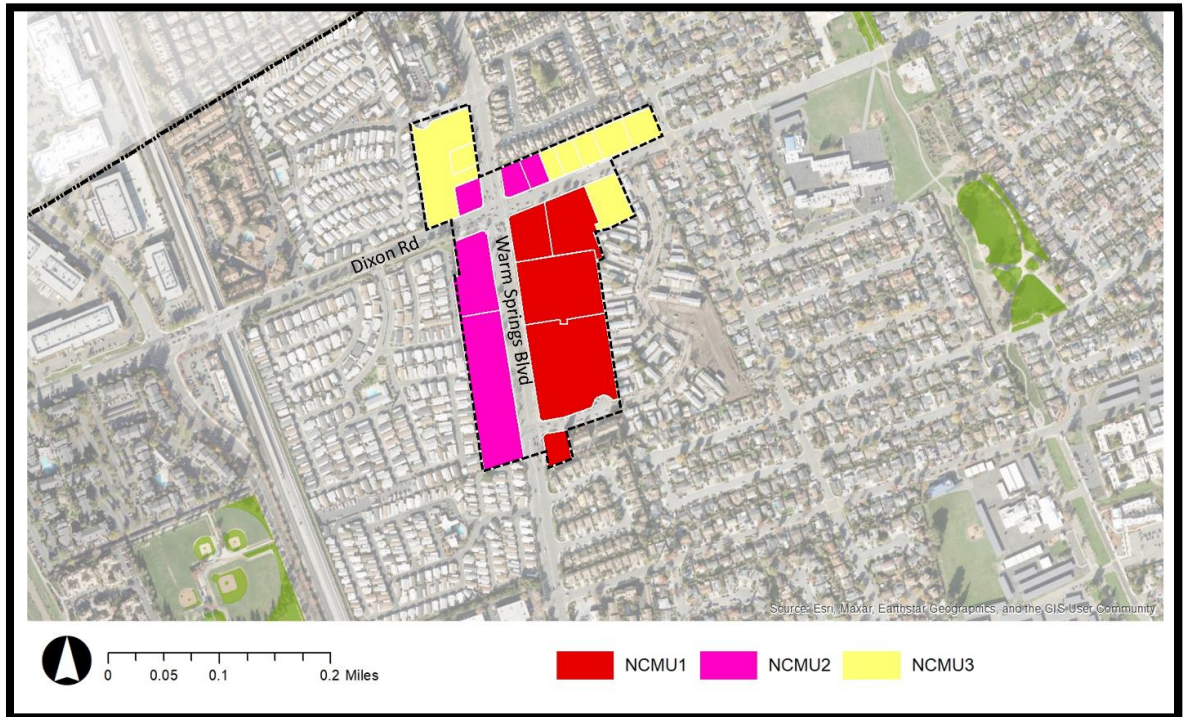


Exhibit 4: Proposed TC Zones

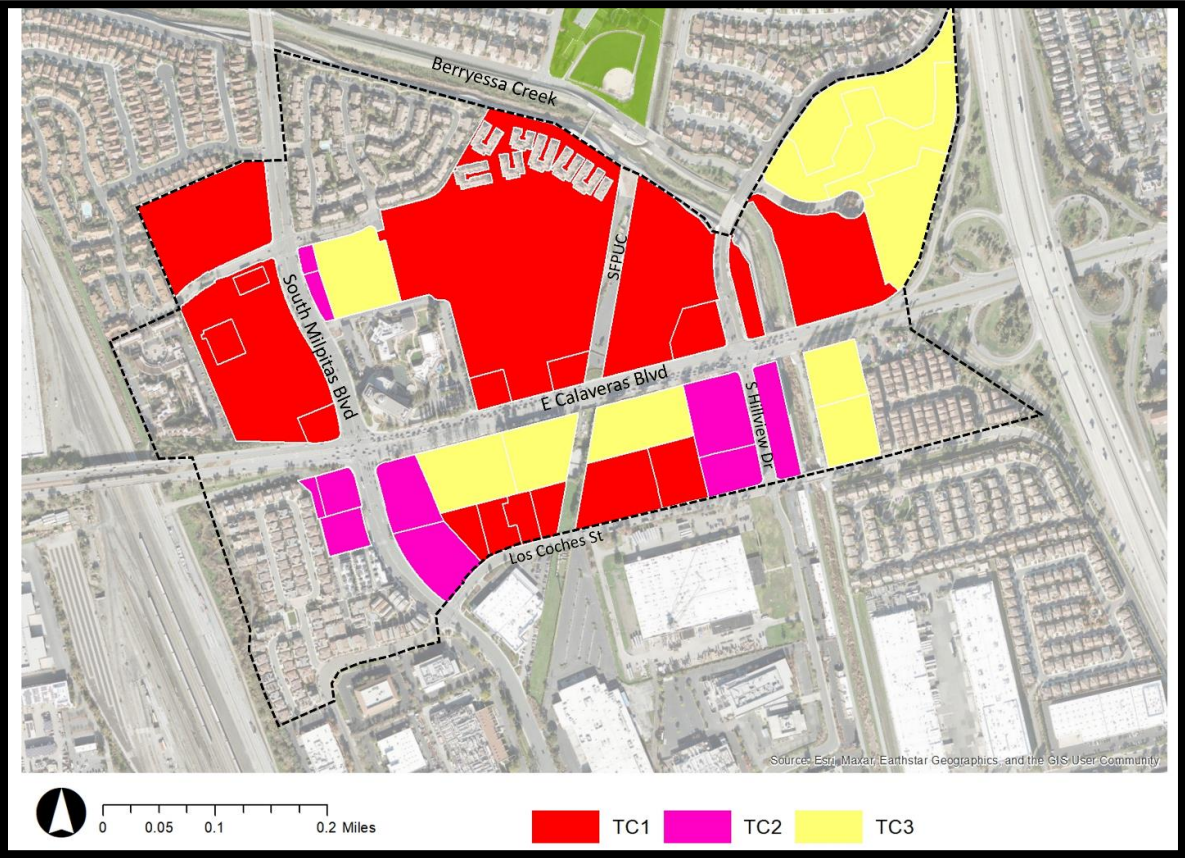


Exhibit 5: Proposed Zoning updates to implement the HODs, NCMU, and TC

APN	Existing Zoning	Proposed Zoning
08804078	C1	NCMU1
02606030	C	NCMU1
08835011	C2	NCMU1
02606010	C	NCMU1
02913039	C2	NCMU1
08835017	C2	NCMU1
08835018	C1	NCMU1
08836010	C2	NCMU1
02913041	C2	NCMU1
08836044	C2	NCMU1
08835015	C1	NCMU1
02606001	C1	NCMU1
08835016	C2	NCMU1
02606011	C	NCMU1
02606029	C	NCMU1
08836045	C2	NCMU1
08836002	CSS	NCMU2
08843043	C2	NCMU2
02913014	COS	NCMU2
08804010	C1	NCMU2
08804065	C1	NCMU2
08836040	CSS	NCMU2
08836041	CSS	NCMU2
08836025	CSS	NCMU2
08804075	C15	NCMU2
02605023	C1S	NCMU2
08804043	AS	NCMU2
02913013	C1H	NCMU2
02202050	S	NCMU2
08843031	C2S	NCMU2
08843002	C2	NCMU2
08843026	C2	NCMU2
02202049	S	NCMU2
02201004	HSS	NCMU2
08843028	C2	NCMU2
08836030	CSS	NCMU2

08843027	C2	NCMU2
08836036	CSS	NCMU2
08836035	CSS	NCMU2
08804048	C1S	NCMU2
08843025	C2	NCMU2
02605024	MXD-S	NCMU2
08804077	R1	NCMU3
08804076	C1	NCMU3
02605019	C1S	NCMU3
02605021	C1S	NCMU3
08834110	C	NCMU3
02605018	C1S	NCMU3
02605020	C1S	NCMU3
08804072	C	NCMU3
08834111	C	NCMU3
08834109	C	NCMU3
02201011	HS	NCMU3
08804060	C1	NCMU3
08804001	C1S	NCMU3
08804056	C1S	NCMU3
08804073	C	NCMU3
02201003	HSS	NCMU3
02605053	C1S	NCMU3
2812025	TC	TC1
2822016	TC	TC1
2826001	TC	TC1
2812004	TC	TC1
2801001	TC	TC1
2822009	TC	TC1
2822132	TC	TC1
2822008	TC	TC1
2812013	TC	TC1
2812014	TC	TC1
2812016	TC	TC1
2822011	TC	TC1
8628051	TC	TC1
8628031	TC	TC1
8628032	TC	TC1
8628052	TC	TC1
8628033	TC	TC1
8628034	TC	TC1

2812020	TC	TC2
8628038	TC	TC2
8629079	TC	TC2
8628045	TC	TC2
8628035	TC	TC2
8628019	TC	TC2
8628040	TC	TC2
8628029	TC	TC2
8679087	TC	TC2
2826004	TC	TC3
2826006	TC	TC3
2826005	TC	TC3
2826003	TC	TC3
2812021	TC	TC3
8629060	TC	TC3
8628047	TC	TC3
8628021	TC	TC3
8628020	TC	TC3
8629060	TC	TC3