

**REGULAR**

**NUMBER: 38.811**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CITY'S ZONING SECTIONAL MAP, CHANGING THE DESIGNATION OF 10.7 ACRES FROM INDUSTRIAL PARK (MP) TO SINGLE FAMILY RESIDENTIAL MINIMUM LOTS SIZE 2,500 SQUARE FOOT (R1-2.5) WITH SITE AND ARCHITECTURAL OVERLAY (-S) AND PLANNED UNIT DEVELOPMENT (PD12-0001)**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of November 19, 2013, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of December 3, 2013 upon motion by Councilmember Giordano. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (4) Vice Mayor Polanski, Councilmembers Giordano, Gomez and Montano

NOES: (1) Mayor Esteves

ABSENT: (0)

ABSTAIN: (0)

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## RECITALS AND FINDINGS:

**WHEREAS**, on November 17, 2011, a pre-application was submitted by Trumark Homes (“Applicant”), 4185 Blackhawk Plaza Circle, Suite 200, Danville, CA 94506. On May 23, 2012, an application was submitted by Trumark Homes, 4185 Blackhawk Plaza Circle, Suite 200, Danville, CA 94506 for a development proposal to allow for a General Plan and Zoning Amendment to change the land use designation from Industrial Park to Residential for an 84-unit residential subdivision on a 10.7 acre site, construction of a Penitencia Creek pedestrian bridge, and supplemental land use and zoning amendments on six other parcels. The properties are located within the Industrial Park Zoning District with Site and Architectural Overlay at 1494 California Circle (APN: 22-37-011), 1600 California Circle (APN 22-37-012), 1424-1436 California Circle (APN 22-37-019), 1501 California Circle (APN 22-37-047), 1521 California Circle (APN 22-37-046), 1533 California Circle (APN 22-37-045), 1543-1547 California Circle (APN 22-37-049), and 1551 California Circle (APN 22-337-040); and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and determined that an Environmental Impact Report (EIR) would be required for the project and circulated a Notice of Preparation dated March 1, 2013 to public agencies and interested parties for consultation on the scope of the EIR. The Draft EIR (SCH No.2013032005) was circulated between June 21, 2013 and August 5 2013; and

**WHEREAS**, on October 23, 2013, the Planning Commission held a noticed public hearing on the Project, at which time the Planning Commission considered a written staff report, the Draft EIR, written and oral comments on the Draft EIR, and all other oral and written comments and documents as part of the administrative record. Based on the full record before the Planning Commission, the Planning Commission adopted Resolution No. 13-025 recommending that the City Council deny the application requesting for a change in land use designation from Heavy Industrial to Residential for the construction of 84 single family homes (GP12-0003, ZA12-0004, SD12-0002, PD12-0001, and MT12-0001); and

**WHEREAS**, on November 19, 2013, the City Council held a noticed public hearing to consider the Planning Commission’s recommendation and evidence regarding the Project.

**NOW THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

**Section 1.** The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**Section 2.** The City Council has reviewed, considered and exercised its independent judgment on the Project’s Final EIR and adopted Resolution No. 8314 certifying the Final EIR for the Project as completed in compliance with CEQA. All applicable mitigation measures identified in the Final EIR will apply to the Project and where impacts cannot be reduced to a level of less than significant, statements of overriding considerations are set forth in Resolution No. 8314. Resolution No. 8314 is hereby adopted by reference as though fully set forth herein.

**Section 3.** **Zoning Amendment Findings – Milpitas Municipal Code Section XI-10-57.02(G):**

A. *The proposed amendment is consistent with the goals, objectives, policies, and programs of the Milpitas General Plan because:*

***Growth and Expansion***

i. Implementing Policy 2.a-I-2: Promote develop within the incorporated limits which acts to fill in the urban fabric, rather than providing costly expansion of urban services into outlying areas.

***Job/Housing Relationship***

ii. Implementing Policy 2.b-I-3: Providing housing opportunities in Milpitas by meeting the City's regional fair-share housing obligations.

iii. Implementing Policy 2.b-I-2 Consider locating housing in close proximity to industrial developments where they can be served by existing city services and facilities

- a. The proposed project is consistent with stated policies in that the project proposes to redevelop two under-utilized industrial buildings. The project site would be an urban infill project and will not induce sprawl or require new public infrastructure to service the new residential development. The project would contribute 84 new single-family residential units towards regional housing goals. The project would locate housing near industrial districts and employment centers such as the Venture Commerce Center and McCarthy business and technology parks located on the west side of I-880. This General Plan amendment is accompanied by a proposal to change the Zoning District for the Property to Single Family Residential minimum lot size 2,500 with "S" Zone Overlay District "R1-2.5-S" to ensure consistency with the General Plan.

*B. The proposed amendment will not adversely affect public health, safety and welfare because of the following:*

- a. The proposed Project will comply with all applicable local, State and federal laws regarding locating near rail lines and rail yards.

**Section 4. Amendment of the City of Milpitas Zoning Sectional Map**

The Zoning Map of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted Chapter XI-10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code of said City, is hereby amended by adding a new Section District No. 582, a copy of which is attached hereto and incorporated as **Exhibit 1**. This Zoning Map shall be kept in uncoded form and shall be made available upon request from the Director of Planning and Neighborhood Services.

**Section 5. Severability**

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

**Section 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 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**



City of Milpitas  
Waterstone Residential Project  
Sectional District Map. No 581  
Map Exhibit

Legend



Waterstone Project Area  
Parcel Boundary

