

**REGULAR**

**NUMBER: 38.830**

**TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CITY'S ZONING MAP, CHANGING THE ZONING DESIGNATION OF 8.7 ACRES FROM INDUSTRIAL PARK WITH TRANSIT ORIENTED DEVELOPMENT OVERLAY (MP-TOD) TO MULTIPLE FAMILY - HIGH DENSITY WITH TRANSIT ORIENTED DEVELOPMENT OVERLAY (R3-TOD) AT 551 LUNDY PLACE, 1992 TAROB COURT, 2001 TAROB COURT AND 675 TRADE ZONE BOULEVARD**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of October 3, 2017, upon motion by Councilmember Nuñez and was adopted (second reading) by the City Council at its meeting of October 17, 2017, upon motion by Vice Mayor Grilli. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (3) Vice Mayor Grilli, Councilmembers Nuñez and Phan

NOES: (1) Councilmember Barbadillo

ABSENT: (0) None

ABSTAIN: (1) Mayor Tran

ATTEST:

APPROVED:

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Mary Lavelle, City Clerk

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Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

## RECITALS AND FINDINGS:

**WHEREAS**, on December 20, 2016, The True Life Companies submitted an application to the City of Milpitas for the approvals necessary to convert 8.7 acres across four sites within the Transit Area Specific Plan planning area from industrial to residential uses and develop a 53-unit condominium project on one of those sites. The project (the “Project”) thus consists of and requires:

- a. General Plan Amendment (GP16-0005) to change (1) the general plan land use designation assigned to 551 Lundy Place, half of 1992 Tarob Court<sup>1</sup>, 2001 Tarob Court, and 675 Trade Zone Boulevard from Industrial Park (INP) to High-Density, Transit Oriented Residential (HD-TOR), and (2) amend General Plan Implementing Policy 2 to read as follows “Maintain and expand the total amount of land with industrial designations *where appropriate*. Do not add overlays or other designations that would allow non-industrial, employment uses within industrially designated areas” (proposed new language underlined in italics); and
- b. Specific Plan Amendment (ST16-0003) to (1) change the TASP land use designation assigned to 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court, and 675 Trade Zone Boulevard to High-Density, Transit Oriented Residential (HD-TOR); (2) amend the zoning assigned to 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court, and 675 Trade Zone Boulevard from Industrial Park with Transit Oriented Development Overlay (MP-TOD) to Multiple Family, High Density with Transit Oriented Development Overlay (R3-TOD), and (3) make text changes to the TASP; and
- c. Zoning Amendment (ZA16-0003) to rezone 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court, and 675 Trade Zone Boulevard from Industrial Park with Transit Oriented Development Overlay (MP-TOD) to Multiple Family, High Density with Transit Oriented Development Overlay (R3-TOD); and
- d. Vesting Tentative Map (MT16-00004) to subdivide the 1992 Tarob Court property into ten (10) legal parcels, establish 53 residential condominium units and related common areas, and dedicate all necessary easements;
- e. Site Development Permit (SD16-0010) to develop 1992 Tarob Court with 53 attached two- and three-bedroom townhome condominium units and associated landscaping, as well as open space, parking and circulation routes, and infrastructure improvements. Development of 1992 Tarob Court would require demolition of an existing light industrial building and related landscaping and parking; and
- f. Conditional Use Permit (UP16-0029) for 1992 Tarob Court to authorize the use of a tandem parking configuration in 17 of the townhome units, as well as to authorize the use of three (3) parking spaces on Lundy Place to meet the Project’s guest parking requirement.

**WHEREAS**, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan (the “TASP EIR,” State Clearinghouse No. 2006032091), and subsequently adopted the Transit Area Specific Plan (the “TASP”); and

**WHEREAS**, in order to conduct environmental review of the Project in accordance with the California Environmental Quality Act (“CEQA,” codified at California Public Resources Code §§ 21000, et seq., as further governed by the State CEQA Guidelines, 14 California Code of Regulations §§ 15000, et seq.), an addendum to the TASP EIR has been prepared for the Project (the “Addendum”); and

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<sup>1</sup> The other half of the 1992 Tarob Court property is designated High Density, Transit Oriented Residential (HD-TOR).

**WHEREAS**, per 14 C.C.R. § 15164(b), the Addendum concludes that no supplemental or subsequent EIR is required because: (a) no substantial changes are proposed in the Project which will require major revisions of the TASP EIR; (b) no substantial changes have occurred with respect to the circumstances under which the Project is being undertaken which will require major revisions in the TASP EIR; and (c) no new information which was not known and could not have been known at the time the TASP EIR was certified has become available; and

**WHEREAS**, on August 9, 2017, the Planning Commission of the City of Milpitas held a duly-noticed public hearing to consider the Addendum and the Project, and considered evidence presented by City staff, the applicant, and other interested parties; and

**WHEREAS**, by adoption of Resolution No. 17-026, the Planning Commission recommended that the City Council adopt the Addendum and approve the Project in its entirety, making all necessary findings to support said recommendations, with two recommended modifications:

a. the Planning Commission did not recommend the City Council approve the use of three (3) parking spaces on Lundy Place to meet the Project's guest parking requirement; and

b. the Planning Commission recommended that the Lundy Place frontage of 1992 Tarob Court be developed in accordance with the specifications of Figure 5-9 ('New Local Streets') of the Transit Area Specific Plan; and

**WHEREAS**, on September 19, 2017, the City Council held a duly-noticed public hearing on the proposed action, including the Addendum, as well as the Project itself, and considered evidence presented by City staff and other interested parties; and

**WHEREAS**, by adoption of Resolution No. 8700 on October 3, 2017, the City Council, as the lead agency for the Project, approved and adopted the Addendum for the Project, which specifically contemplated the Zoning Ordinance amendments set forth herein, finding that it was completed in compliance with CEQA and the State CEQA Guidelines. The Addendum fully analyzed any environmental impacts associated with the actions contemplated in this Ordinance; and

**WHEREAS**, all other legal prerequisites to the adoption of this Ordinance 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. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

The Project, including this Ordinance, has been subjected to environmental review under the California Environmental Quality Act ("CEQA") through the preparation of an Addendum to the TASP EIR. By adoption of Resolution No. 8700, the City Council has determined that an addendum is the proper environmental review document under CEQA, that the Addendum reflects the City Council's independent judgment and analysis, and that there is no substantial evidence that the Project will have a significant effect on the environment. Through the adoption of Resolution No. 8700, the City Council likewise found that, based on its independent review and consideration, the Addendum complies with the requirements of CEQA and the City Council therefore adopted the conclusions in the Addendum, as well as the Addendum itself, on the basis of the evidence and reasoning set forth therein.

### **SECTION 3. ZONING AMENDMENT FINDINGS – MILPITAS MUNICIPAL CODE SECTION XI-10-57.02(G)(3)**

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

By adoption of Resolution No. 8701, the City Council approved General Plan Amendment GP16-0005, which amended the general plan land use designation for 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court, and 675 Trade Zone Boulevard from Industrial Park (INP) to High-Density, Transit Oriented Residential (HD-TOR), which permits residential development at densities of 21-40 dwelling units per acre. The proposed Zoning Amendment would rezone these four properties to Multiple-Family High Density with Transit Oriented Development Overlay (R3-TOD), which would permit development at a density of up to 40 dwelling units per acre (per TASP Table 5-1: Development Standards) in keeping with the HD-TOR density requirements. Amending the zoning designation for these four parcels will thus make the zoning and general plan land use designation for the parcels consistent, as required by law.

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

The proposed Zoning Amendment would change the current zoning district assigned to the proposed sites (Industrial Park with Transit Oriented Development Overlay – MP-TOD) to the same land use designation of the directly adjacent properties to the south and west (Multiple Family, High Density with Transit Oriented Development Overlay - R3-TOD), as well as to the same designation of the balance of the Trade Zone/Montague sub-district (R3-TOD). As such, the proposed Zoning Amendment would significantly improve compatibility with the surrounding area, thereby improving public health, safety and welfare by removing incompatible zonings between directly adjacent properties.

### **SECTION 4. AMENDMENT OF THE ZONING MAP OF THE CITY OF MILPITAS**

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 rezoning 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court, and 675 Trade Zone Boulevard from Industrial Park with Transit Oriented Development Overlay (MP-TOD) to Multiple Family, High Density with Transit Oriented Development Overlay (R3-TOD), as depicted in **Exhibit 1**, which is attached hereto and incorporated herein. This Zoning Map shall be kept in uncodified form and shall be made available upon request from the Director of Planning and Neighborhood Services.

### **SECTION 5. SEVERABILITY**

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

### **SECTION 6. 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'

### AMENDED ZONING MAP



## LEGEND: Zoning Ordinance Map

-  Boundary of Zoning Ordinance Map Amendment Area
-  Multiple Family High Density Transit-Oriented Residential with Transit-Oriented Development Overlay (R3-TOD)
-  Multiple Family Very High Density Transit-Oriented Residential with Transit-Oriented Development Overlay (R4-TOD)
-  Park