

**REGULAR**

**NUMBER: 38.838**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE ZONING CODE CONTAINED IN TITLE XI, CHAPTER 10, SECTION 3.03 OF THE MILPITAS MUNICIPAL CODE TO ALLOW A ZONING DESIGNATION CHANGE OF CERTAIN PARCELS WITHIN THE ZONING MAP**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of January 21, 2020, upon motion by Councilmember Montano and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

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

## **RECITALS AND FINDINGS:**

**WHEREAS**, on November 18, 2018, Robson Homes (the “Applicant”) submitted an application to the City of Milpitas for the approvals necessary to develop a 36-unit single-family residential subdivision, including 10 accessory dwelling units (ADUs), at 1005 North Park Victoria Drive (the “Project”).

**WHEREAS**, the Applicant submitted a revised application to develop a 38-unit single-family residential subdivision with 34 single-family homes (market-rate), 4 paired homes (below-market-rate), and 10 accessory dwelling units (ADUs) at 1005 North Park Victoria Drive. The Project thus consists of and requires:

- a. General Plan Amendment No. GP18-0001: To change the land use designation from Single-Family Low Density (SFL) to Single-Family Medium Density (SMD) for the properties identified as APN (029-04-040); and
- b. Zoning Amendment No. P-ZA18-0003: To amend the zoning maps to change the property zoning designation from Single-Family Residential (R1-6) to Single-Family Residential (R1-3) for the properties identified as APN (029-04-040); and
- c. Planned Unit Development No. P-PD18-0001: To allow for variation from the standard development standards of the Municipal Zoning Code and permit a Planned Unit Development; and
- d. Site Development Permit No. SD18-0015: To allow a 38-unit residential subdivision with 34 single-family homes (market-rate), 4 paired homes (below-market-rate), and 10 accessory dwelling units (ADUs) on a 4.88-acre site; and
- e. Vesting Tentative Map No. P-MT18-0003: To establish 38 single-family home lots and to record site easements; 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 above; and

**WHEREAS**, General Plan (GP) Amendment No. GP18-0001 proposes an amendment within the City of Milpitas General Plan map to allow a change of the GP designation of the Project site from Single-Family Low Density (SFL) to Single-Family Medium Density (SMD) of the Project properties. Such proposed Amendment has been initiated by resolution for approval by the City Council, separate from this Ordinance; and

**WHEREAS**, Zoning Amendment No. ZA18-0003 proposes an amendment within the City of Milpitas Zoning Map to allow a change of designation from Single-Family Residential (R1-6) to Single-Family Residential (R1-3) of the Project properties, which has been initiated by this Ordinance; and

**WHEREAS**, on August 28, 2019, the Planning Commission held a duly-noticed public hearing on the subject application, considered evidence presented by City staff, the Applicant, and other interested parties and recommended the City Council approve the proposed amendments; and

**WHEREAS**, on November 5, 2019, the City Council held a duly-noticed public hearing on the proposed action, considered evidence presented by City staff and other interested parties, and directed staff to work with the Applicant to incorporate four affordable housing units on site; and

**WHEREAS**, in response to the City Council's request, the Applicant submitted revised plans to the Planning Department with four affordable housing units included on the Project site; and

**WHEREAS**, on December 11, 2019, the Planning Commission held a duly-noticed public hearing on the revised plans for the subject application, considered evidence presented by City staff, the Applicant, and other interested parties and recommended the City Council approve the proposed amendments; and

**WHEREAS**, on January 21, 2020, 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**, per Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council finds the Zoning Code Amendment set forth herein to be consistent with the General Plan, and specifically with guiding principles and policies 2.a-G-3 (*Provide for a variety of housing types and densities that meet the needs of individuals and families*), because the Project includes both larger single-family homes and smaller ADUs to meet the housing needs of both families and individuals, and 2.a I-2 (*Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas*), because the proposed Project is an infill development located on a vacant parcel of land and will not require the further extension of any additional City-provided urban services into outlying areas, and 2.a-I-17 (*Foster community pride and growth through beautification of existing and future development*), because the development proposes to beautify a vacant parcel of land by building a new subdivision of homes of quality design and craftsmanship, and 2.a-I-119 (*Use zoning for new residential developments to encourage a variety and mix in housing types and cost*), because the Project proposes both single-family homes and ten smaller-scaled studio-style accessory dwelling units (ADUs), which provides neighborhood diversity in housing type and cost, and 3.d-I-9 (*Require developers to make new projects as bicycle and pedestrian "friendly" as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding civic, recreation, education, work, and retail center*), because the proposed Project includes the construction of new sidewalks on both sides of the new internal private street and a new sidewalk running the eastern, northern and western boundaries of the Project site and will also retain the existing southbound bike lane on North Park Victoria Drive, and 3.d-I-12 (*Design streets to include detached sidewalks with planting strips or wider, attached sidewalks with tree-wells to encourage pedestrian use and safety, as well as to remove barriers and increase accessibility*), because the proposed Project includes a new sidewalk running the eastern boundary of the site along North Park Victoria Drive including an outer planting strip for increased pedestrian safety, and the Project also includes pedestrian connectivity to North Park Victoria Drive via a footpath located at the southeast corner of the site; 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. The Project was analyzed by City staff and conditioned in a manner that will protect the residents and community from adverse impacts. Such analysis includes a thorough review to ensure the Project can be served by existing infrastructure, including public utilities and services. Further, as designed, the proposed Project is sensitive to pedestrian and traffic safety through effective traffic and circulation design. Additionally, the Project has been subject to CEQA review through the preparation of an Initial Study (IS) and Mitigated Negative Declaration (MND). The MND has prescribed mitigation measures such as NOI-1 which requires management of equipment noise during construction and AIR-1 which requires the installation of HVAC systems with a control efficiency to remove a minimum level of air particulate that will prevent any public health problems from occurring.; and

**WHEREAS**, the City Council finds that with the adoption of Zoning Code Amendment No. ZA18-0003 and General Plan Amendment No. GP18-0001, the Zoning Code and the General Plan will be internally consistent; and

**WHEREAS**, prior to taking action on this Ordinance, the City Council has taken separate action by resolution to adopt the Initial Study/MND and approve and adopt the Mitigation Monitoring and Reporting Program (MMRP) and impose it as a condition of Project approval.

**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. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 3.03**

Title XI, Chapter 10, Section 3.03 (“Zoning Map”), Table XI-10-6.04-1 of the Milpitas Municipal Code is hereby amended, as attached hereto in **Exhibit 1**.

## **SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The adoption of this Ordinance is under the authority of an Initial Study/Mitigated Negative Declaration (IS/MND) that was prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.) and the regulations and policies of the City of Milpitas. The purpose of this IS/MND is, among other things, to provide objective information regarding the environmental consequences of the proposed Project to the decision makers and the public and to identify measures to substantially lessen or avoid significant adverse environmental effects of the project. In further conformance with CEQA, the City has prepared a Mitigation Monitoring and Reporting Program for reporting or monitoring on the measures the City hereby has either required or made a condition of approval to the Project to mitigate or avoid significant environmental effects. The City Council considered the IS/MND prior to rendering a decision on the Project. Based on its independent review and consideration, the City Council hereby finds that the IS/MND complies with the requirements of CEQA and adopts the conclusions in the IS/MND on the basis of the evidence and reasoning set forth therein.

## **SECTION 4. 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 5. 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: Zoning Map**

