

RESOLUTION NO. 21-025

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING TEXT
AMENDMENT ZA21-0004 AMENDING SECTIONS OF CHAPTER 1 “SUBDIVISIONS”
AND CHAPTER 10 “ZONING” OF TITLE XI OF THE MILPITAS MUNICIPAL CODE
RELATING TO URBAN LOT SPLITS AND TWO-UNIT PROJECTS AND
DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)**

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, in 2021, the California Legislature approved, and the Governor signed into law Senate Bill 9 (“SB 9”), which among other things, adds Government Code section 65852.21 and 66411.7 to impose new limits on local authority to regulate urban lot splits and two-unit projects; and

WHEREAS, SB 9 allows local agencies to adopt objective design, development, and subdivision standards for urban lot splits and two-unit projects; and

WHEREAS, SB 9 takes effect January 1, 2022, and preempts any conflicting city ordinance; and

WHEREAS, the City desires to amend its local regulatory scheme to comply with Government Code sections 66411.7 and 65852.21 and to appropriately regulate projects under SB 9; and

WHEREAS, the City has prepared Zoning Amendment No. ZA21-0004 (“Amendment”) to the City’s Municipal Code, including refinements to Sections of Chapter 1 “Subdivisions” and Chapter 10 “Zoning” of Title XI; and

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

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

WHEREAS, on November 29, 2021, the Planning Commission held a duly-noticed public hearing on the subject Amendment, at which all those in attendance were given the opportunity to speak on the Zoning Text Amendment; and

WHEREAS, the Planning Commission has considered all the written and oral testimony presented at the public hearing in making its decision.

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 the City staff report, testimony by staff and the public, and other 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. CEQA Finding

The Planning Commission finds that under California Government Code sections 65852.21(j) and 66411.7(n), the adoption of an ordinance by a city or county implementing the provisions of Government Code sections 66411.7 and 65852.21 and regulating urban lot splits and two-unit projects is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA"). Therefore, the proposed amendment is statutorily exempt from CEQA in that the proposed amendment implements these new laws enacted by SB 9.

SECTION 3. Findings for Zoning Amendment (Milpitas Municipal Code, Subsection XI-10-57.02(G)(3))

The Planning Commission makes the following findings based on the evidence in the public record in support of Zoning Text Amendment No. ZA21-0004:

1. The proposed amendment is consistent with the General Plan.

The proposed zoning text amendments include amendments to the City's subdivision and zoning regulations that are consistent with the Milpitas General Plan. Specifically, the amendments implement policy 1-4 of the Land Use Element and policy 4-1 of the Community Health and Wellness Element, which speak to the need to provide a variety of housing types suited to a range of household types (e.g. individuals, families) and income levels and creating housing close in proximity to public transportation. The proposed zoning amendments would also help to realize the intent of Goals C and D of the Housing Element, which call for the City to facilitate new housing production and support diversity and affordability in Milpitas' housing stock. Adoption of the proposed amendments to the Zoning Ordinance would make it easier, faster, and more cost-efficient for property owners to create new single-family residential units on smaller lots, and the new units are likely to be more affordable. Adding "missing middle" housing units within the City's existing neighborhoods would greatly help to meet local housing demand, especially for smaller households with lower- to moderate incomes such as students, single working individuals, and seniors.

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

The proposed zoning text amendments include amendments to the City's subdivision and zoning regulations that will provide a streamlined ministerial review and approval process for

qualifying projects. The amendments also add new regulations specific to urban lot splits and two-unit projects to ensure that future units are compatible with surrounding single-family residential uses and avoid potential impacts (e.g. to privacy and solar access) on adjacent properties. Without an ordinance establishing local requirements for urban lot splits and two-unit projects, the City would only be able to implement the limited requirements in SB 9. In this respect, the amendments will serve to protect neighborhood character and property owner rights, thereby maintaining the public health, safety, and welfare.

SECTION 4: Planning Commission Action

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 21-025 recommending that the City Council adopt Zoning Text Amendment ZA21-0004 based on the above Findings.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on November 29, 2021.

DocuSigned by:



Nov-30-2021

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Steve Tao, 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 November 29, 2021 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Mercedes Albana	✓			
Tim Alcorn	✓			
Lawrence Ciardella	✓			
Bill Chuan	✓			
Alexander Galang	✓			
Steve Tao		✓		
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