

**RESOLUTION NO. 19-016**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS  
RECOMMENDING THAT THE CITY COUNCIL ADOPT A CITY-INITIATED  
ZONING TEXT AMENDMENT TO AMEND SECTIONS OF CHAPTER 10 OF TITLE  
V OF THE MILPITAS MUNICIPAL CODE ESTABLISHING AN ADMINISTRATIVE  
HEARING PROCESS AND DISCONTINUING THE PLANNING COMMISSION  
SUBCOMMITTEE, AND MAKING CEQA FINDING OF EXEMPTION FROM  
ENVIRONMENTAL REVIEW PURSUANT TO CEQA GUIDELINES SECTION  
15061(B)(3)**

**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**, in late 2018, the City retained the Matrix Consulting Group to assess the organizational structure, staffing levels, service delivery, and user fees related to the development review, permitting, and inspection process; and

**WHEREAS**, City staff and the Matrix Consulting Group presented the report’s analysis and recommendations to City Council on April 16, 2019; and

**WHEREAS**, one of the recommendations in the report for the Planning Department is to designate a member of the Planning Department staff as a Zoning Hearing Officer, also known as a Zoning Administrator; and

**WHEREAS**, a Zoning Administrator would streamline the review process for minor entitlement applications that currently require Planning Commission Subcommittee approval. Moreover, the Zoning Administrator would conduct public hearings on a regular basis for the review and subsequent approval or denial of minor entitlement applications, providing greater flexibility and frequency of hearing dates and reducing processing times of minor entitlement applications; and

**WHEREAS**, on April 16, 2019, the City Council considered the report prepared by the consultant and directed staff to prepare a Zoning Ordinance to implement the report’s recommendation; and

**WHEREAS**, the City has prepared a Zoning Amendment (“Amendment”) to the City’s Municipal Code, including refinements to Section XI-10-2 “Definitions”, Section 13 (“Special Uses”), Section 15 (“Special Events and Activities”), Section 24 (“Signs”), Section 53 (“Off-Street Parking Regulations”), Section 55 (“Exceptions”), Section 57 (“Applications”), and Section 64 (“Development Review Process”) of the Municipal Code; 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**, the Planning Commission hereby finds and determines that the project is exempt from further CEQA review pursuant to CEQA Guidelines section 15061(b)(3) (common sense exemption)); and

**WHEREAS**, on May 22, 2019, the Planning Commission held a duly noticed public hearing on the subject application, 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 of the written and oral testimony presented at the public hearing in making its decision; 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 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 recommends that the City Council find, under CEQA Guidelines, Section 15378(b)(5) that this Ordinance is not a “project” under CEQA Section 15378(b)(5) of the CEQA Guidelines excludes from the definition of “project” “[o]rganizational and administrative of governments that will not result in direct or indirect physical changes in the environment.” The subject of this Ordinance is the establishment of the Zoning Administrator and discontinuance of the Planning Commission, which is both an organizational and administrative change. Further, this Ordinance would not permit any particular project and, therefore, would not result in direct or indirect physical changes in the environment. Therefore, this Ordinance is not a “project” under CEQA Guidelines Section 15378 and, accordingly, is exempt from CEQA review.

The Planning Commission recommends that the City Council find, under CEQA Guidelines, Section 15061(b)(3), that if this Ordinance is a project, it is nonetheless exempt from further environmental review because it is the adoption of an ordinance establishing an administrative hearing process, but would not permit any particular project. Therefore, it can be seen with certainty that there is no possibility that the Ordinance in question may have a significant effect on the environment; accordingly, the Ordinance is categorically exempt from CEQA.

**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. ZA19-0001:***

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

The proposed Zoning Text Amendment to establish a Zoning Administrator is an implementation action that will improve the City's fiscal sustainability because it reduces expenses for the applicant and the City, and expedites the timeline associated with application processing and the corresponding reduction in permitting costs. This is consistent with Land Use Guiding Principle 2.a-G-11, which promotes land use policy and implementation actions that improve the City's fiscal sustainability. Establishing a Zoning Administrator will not conflict with or impede achievement of any of the goals, policies, or land use designations established in the General Plan. Therefore, this Zoning Text Amendment is consistent with the General Plan, specifically, Land Use Guiding Principle 2.a-G-11.

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

The proposed Zoning Text Amendment to establish a Zoning Administrator will not adversely affect the public health, safety, and welfare because the amendment will retain the ability of a review authority to analyze land use, parking, noise, and other criteria to ensure that ensure that any new structures or uses are compatible with surrounding uses.

**SECTION 4:** The Planning Commission of the City of Milpitas hereby adopts Resolution No. 19-016 recommending that the City Council adopt Zoning Text Amendment ZA19-0003 based on the above Findings.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on May 22, 2019.

  
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 May 22, 2019 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella		X		
Tim Alcorn	X			
Sudhir Mandal	X			
Demetress Morris		X		
Bill Chuan	X			
Steve Tao	X			
Evelyn Chua	X			