

**RESOLUTION NO. 19-021**

**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 RESTRICTING NONINDUSTRIAL LAND USES IN INDUSTRIAL ZONING DISTRICTS, ADDING NEW REGULATIONS FOR MOBILE FUELING SERVICES, AND CONDITIONALLY PERMITTING TEMPORARY PUBLIC SAFETY FACILITIES IN INDUSTRIAL ZONING DISTRICTS; 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**, maintaining a sufficient supply of land zoned exclusively for industrial uses and similar compatible uses is important for the health and diversity of the City's economy and job market; and

**WHEREAS**, industrial lands have a net positive impact on the City's budget, generating more dollars in tax revenue than they cost in service expenditures, thereby helping to offset the cost of providing City services to lands with other uses such as residential and public; and

**WHEREAS**, the zoning regulations for industrial zones in Milpitas currently conditionally permit several nonindustrial uses that may be incompatible with adjacent heavy industrial activities, and the approval of conditional use permits for several nonindustrial uses in industrial zones in recent years has begun to adversely impact the integrity of industrial areas of the city; and

**WHEREAS**, the City Council and City Manager have determined that the preservation of industrial lands is an important policy priority for Milpitas; and

**WHEREAS**, restricting or prohibiting nonindustrial land uses in industrial zoning districts is an essential component in maintaining the supply of industrial land as well as the viability of such land for heavy industrial activities; and

**WHEREAS**, there has been a recent increase in mobile fueling service vendors operating in Milpitas, and the City has recognized a need to regulate the location and operating characteristics of these businesses; and

**WHEREAS**, the City has a need to establish a temporary fire station during the construction of a new permanent station, and has identified a suitable available property at 1126 Yosemite Drive, located in the Heavy Industrial (M2) zoning district; and

**WHEREAS**, the regulations for the M2 zoning district do not currently allow public service or public safety uses either on a short-term or long-term basis, and changes to the M2 zoning regulations are necessary in order to allow the operation of a temporary fire station, a critical public safety facility; and

**WHEREAS**, the City has prepared a Zoning Amendment (“Amendment”) to the City’s Municipal Code, including refinements to Section 2 (“Definitions”), Subsection 4.02 (“Residential Use Regulations”), Subsection 5.02 (“Commercial Use Regulations”), Subsection 7.02 (“Industrial Use Regulations”), Subsection 7.04 (“Industrial Zone Special Development and Performance Standards”), Subsection 10.02 (“Institutional Use Regulations”), and Subsection 13.11 (“Temporary Uses and Structures”) 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 June 26, 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 15061(b)(3), that this Ordinance is exempt from further environmental review because it is the adoption of an ordinance amending zoning regulations, 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 not subject to review under 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. ZA19-0005:***

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

The proposed zoning amendments support several of the guiding principles and policies of the General Plan. The Land Use Element includes several policies and guidelines related to preserving industrial lands, ensuring a balanced and diverse economic base, and prioritizing the City's fiscal well-being when making land use decisions. The zoning text amendments restricting uses in the industrial zones help accomplish all these goals. In addition, the zoning amendments regulating mobile fueling services are aligned with the goals and objectives related to orderly and planned management of uses in the Land Use Element, as well as those related to effective fire protection services in the Seismic and Safety Element. The amendments to conditionally permit temporary public safety uses in industrial zones support the Seismic and Safety Element goal of promoting high-quality, efficient fire protection services because they will allow operation of a temporary fire station in a suitable location during the construction of a permanent fire station in another location.

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

The fundamental purpose of the proposed zoning amendments is to promote public health, safety and welfare. The changes to allowed uses in the industrial zones are intended to keep assembly, entertainment, retail, commercial services, and other nonindustrial uses separate from industrial areas. This will help prevent employees, customers, or patrons of businesses and community organizations from being exposed to potentially adverse impacts from heavy industry, such as hazardous materials, smoke or fumes, and emissions from heavy truck traffic. Similarly, the proposed new zoning regulations for mobile fueling will ensure that these operations are carried out safely and in appropriate locations (including away from residential areas).

**SECTION 4:** The Planning Commission of the City of Milpitas hereby adopts Resolution No. 19-021 recommending that the City Council adopt Zoning Text Amendment ZA19-0005 based on the above Findings.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on June 26, 2019.

Sudhir Mandal  
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 June 26, 2019 and carried by the following roll call vote:

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