



CITY OF MILPITAS AGENDA REPORT (AR)

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| Item Title: | Waive the Second Reading and Adopt Ordinance No. 38.834 Amending Milpitas Municipal Code Title XI, Chapter 10, Sections 2, 13, 15, 24, 53, 55, and 57 Relating to the Establishment of an Administrative Hearing Process (Zoning Administrator) and Discontinuance of the Planning Commission Subcommittee. (Staff Contact: Rozalynne Thompson, 408-586-3278) |
| Category: | Consent Calendar-Community Development |
| Meeting Date: | 8/20/2019 |
| Staff Contact: | Rozalynne Thompson, Senior Planner, 408-586-3278 |
| Recommendation: | <ol style="list-style-type: none"> 1) Waive the second reading of Ordinance No. 38.834 Amending Milpitas Municipal Code (Zoning Text) Title XI, Chapter 10 for Section 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 Zoning Code and determine that the Municipal Code (zoning) amendment is categorically exempt pursuant to Section 15061(b)(3) (“common sense exemption”) of the California Code of Regulations (CEQA Guidelines) and is not a “project” under CEQA per Section 15378(b)(5) of the CEQA Guidelines. 2) Adopt Ordinance No. 38.834 Amending Milpitas Municipal Code Title XI, Chapter 10, Sections 2, 13, 15, 24, 53, 55, and 57 Relating to the Establishment of an Administrative Hearing Process (Zoning Administrator) and Discontinuance of the Planning Commission Subcommittee. |

Background:

On June 18, 2019, the City Council introduced and conducted the first reading of Ordinance No. 38.834 to establish an administrative hearing process (Zoning Administrator) and discontinue the Planning Commission Subcommittee.

Ordinance No.38.834 is now ready for second reading and adoption.

Policy Alternatives:

Alternative 1: Do not establish an Administrative Hearing Process (Zoning Administrator) and continue review of minor entitlement applications by the Planning Commission Subcommittee

Pros: Continue processing entitlement applications according to established procedures

Cons: Significantly more time to process, less flexibility and frequency of hearing dates

Reason not recommended: As discussed above, establishing an administrative hearing process will streamline the development review process by providing greater flexibility and frequency of hearing dates and reducing processing times. If the City does not establish an administrative hearing process, entitlement applications would continue to take significantly more time to process as scheduling hearings depends upon the availability of Planning Commission members. This would result in hearings that would be held less frequently with less flexibility in scheduling,

California Environmental Quality Act:

Staff has determined that the proposed Ordinance is categorically exempt from CEQA review pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines). Introduction and adoption of this Ordinance is not subject to review under CEQA, pursuant to the “common sense exemption” that CEQA only applies to projects that have the potential for causing a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. (CEQA Guidelines, § 15061(b)(3)) A “significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. (CEQA Guidelines, § 15382.) This Ordinance would establish 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 exempt from CEQA review.

Moreover, this Ordinance is not a “project” under CEQA per Section 15378(b)(5) of the CEQA Guidelines. 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.

Recommendation:

- 1) Waive the second reading of Ordinance No. 38.834 Amending Milpitas Municipal Code (Zoning Text) Title XI, Chapter 10 for Section 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 Zoning Code and determine that the Municipal Code (zoning) amendment is categorically exempt pursuant to Section 15061(b)(3) (“common sense exemption”) of the California Code of Regulations (CEQA Guidelines) and is not a “project” under CEQA per Section 15378(b)(5) of the CEQA Guidelines

- 2) Adopt Ordinance No. 38.834 Amending Milpitas Municipal Code Title XI, Chapter 10, Sections 2, 13, 15, 24, 53, 55, and 57 Relating to the Establishment of an Administrative Hearing Process (Zoning Administrator) and Discontinuance of the Planning Commission Subcommittee..

Attachments:

- a) Planning Commission Resolution No. 19-016
- b) Proposed City Council Ordinance No. 38.834