



MILPITAS PLANNING COMMISSION AGENDA REPORT

NEW BUSINESS

Meeting Date: May 12, 2010

APPLICATION: RECSINDMENT OF RESOLUTION NO. 453 FOR TENT SALES AND SIMILAR OUTDOOR EVENTS

APPLICATION SUMMARY:

A request to rescind Resolution No. 453 regarding guidelines for tent sales and similar outdoor events.

LOCATION: None

APPLICANT: City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035

OWNER: None

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 10-024 rescinding Resolution No. 453.**

CEQA Determination: Exempt pursuant to Section 15061(b)(3) of the CEQA guidelines

PLANNER: Sheldon S. Ah Sing, Senior Planner

ATTACHMENTS:

- A. Resolution No. 10-024
- B. Resolution No. 453

BACKGROUND

On February 23, 1994, the Planning Commission adopted Resolution No. 453 regarding guidelines for tent sales and similar outdoor events. This resolution was amended on March 10, 1999. The guidelines were established to ensure that outdoor sales and special events do not adversely impact existing business or access.

On April 6, 2010, the City Council adopted Ordinance 38.795, which amended the city's Municipal Code and established new provisions regarding special activities, special events and other similar outdoor events. That ordinance went into effect on May 6, 2010, thus superseding Resolution No. 453. The purpose of this report is to recommend that the Planning Commission adopt a resolution to officially rescind Resolution No. 453 because those guidelines are no longer valid.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. 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. Rescinding Resolution No. 453 will have no impact on the environment.

CONCLUSION

With the adoption of Ordinance No. 38.795, Resolution No. 453 becomes redundant and unnecessary. Rescinding Resolution No. 453 eliminates redundant guidelines and any potential confusion regarding the provisions and process for special events and activities.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 10-024 rescinding Resolution No. 453, regarding guidelines for tent sales and similar outdoor events.

Attachments:

- A. Resolution No. 10-024
- B. Resolution No. 453

ATTACHMENT A

RESOLUTION NO. 10-024

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, RESCINDING RESOLUTION NO. 453 REGARDING GUIDELINES
FOR TENT SALES AND OTHER SIMILAR OUTDOOR EVENTS**

WHEREAS, on February 23, 1994, the Planning Commission adopted Resolution No. 453 regarding guidelines for tent sales and other similar outdoor events to ensure that outdoor sales and special events do not adversely impact business or access; and

WHEREAS, on April 6, 2010, the City Council adopted Ordinance No. 38.795 that amended the city's Municipal Code and established new provisions regarding special activities, events and other similar outdoor events, thereby superseding the provisions in Resolution No. 453. The ordinance went into effect on May 6, 2010; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt from CEQA.

WHEREAS, on May 12, 2010, the Planning Commission at a regularly scheduled meeting considered evidence presented by City staff, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is exempt from CEQA pursuant to Section 15061(b)(3) because the project is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. 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. The rescindment of Resolution No. 453 regarding the guidelines for tent sales and other similar outdoor events will have no effect on the environment.

Section 5: The Planning Commission of the City of Milpitas hereby rescinds Resolution No. 453 regarding guidelines for tent sales and other similar outdoor events.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on May 12, 2010.

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 12, 2010, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
Erik Larsen				

RESOLUTION NO. 453

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
APPROVING GUIDELINES FOR TENT SALES AND SIMILAR OUTDOOR EVENTS**

WHEREAS the City Planning Commission regards the appearance of businesses in the City as being important to the community and its environs; and

WHEREAS the Planning Commission decrees that these guidelines are adopted in the interest of maintaining the public's health, safety and welfare; and

WHEREAS the Planning Commission's intent is to ensure that outdoor sales and special events do not adversely impact existing businesses or access.

NOW, THEREFORE, BE IT RESOLVED that the City Planning Commission establishes the following approval authorities for outdoor sales, tent sales and outdoor special events:

1. Events of up to three (3) days in duration can be handled administratively by staff.
2. Events exceeding three (3) days in duration shall be reviewed by the Planning Commission Subcommittee. Notification is required, per Item 3 below.

BE IT FURTHER RESOLVED that the following guidelines shall apply to those businesses who seek approval to use tents and/or parking lots for the purpose of holding outdoor sales, tent sales or outdoor special events on private property.

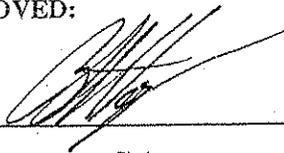
1. Outdoor sales, tent sales or outdoor special events shall be conducted not more than fourteen (14) days per event, non-consecutive, with a minimum thirty (30) day lapse, with a maximum four (4) events within any consecutive twelve (12) month period. A single annual review is acceptable for requests of up to four (4) events, so long as the dates for the events are provided and adhered to by the applicant. Any changes to the approved event schedule require additional Subcommittee or staff review (as applicable based on the duration of the event), per the requirements of this Resolution.
2. This resolution does not apply to "entertainment events," as defined in Milpitas Municipal Code III-5.
3. If the proposed event exceeds three (3) days and is located within a multi-tenant development, the applicant shall provide the Planning Division with either of the following: (1) written, signed consent from the other tenants regarding the proposed event(s) and their dates; or (2) stamped envelopes addressed to each tenant, such envelopes to be submitted at least one (1) month prior to the event. In the latter case, the Planning Division shall prepare a notification to all tenants within the development. Any objections to the proposed event(s) shall be automatically scheduled for a Planning Commission meeting.
4. If a request is denied, the following shall apply (if requested by the applicant): if staff denies a request, then the Planning Commission Subcommittee shall review the request; if the Subcommittee denies a request, then the Planning Division shall agendaize the matter for Planning Commission review. The applicant shall provide the Planning Division with stamped envelopes addressed to the tenants, for purposes of Planning Commission meeting notification.

5. All regulations and ordinances regarding the Fire, Police and Building Departments shall be applicable to any approved application. The Planning review process shall include review by these Departments, and the applicant shall comply with all requirements imposed by these Departments.
6. The operation of the business shall not be conducted in such a manner that pedestrian traffic or vehicular traffic is impeded in its normal and customary use of the driveways, designated walkways and parking areas. Likewise, handicapped parking facilities, access and pathways shall not be obstructed.
7. At least one (1) trash receptacle shall be provided and maintained.
8. No loudspeakers, amplifiers or other noise generating equipment shall be permitted in connection with the business tent sale or outdoor event operation.
9. The tent sale or outdoor event shall be located at least twenty-five (25) feet from any driveway (measured at property line) or fire hydrant.
10. No tent sale or outdoor event shall be located within five hundred (500) feet of a residential zoning district or school.
11. The following application submittal materials are required for all tent sales requests: Planning & Zoning Application form, completed and signed, including property owner signature/consent; applicable filing fee; one (1) copy of the site plan showing the parcel or shopping center boundaries, driveways, buildings, parking lots, handicapped stalls and access paths, pedestrian pathways, tent sale location; a letter specifying the dates of the event(s), a description of the event(s), and how it/they will be conducted (hours of operation, sales staff, etc.); and applicable notification envelopes per Item 3 of this Resolution.

PASSED AND ADOPTED this 23rd day of February, 1994, and amended this 10th day of March, 1999, by the following vote:

AYES: Hay, Williams, Burch, Montano, Nitafan, Sandu
NOES: None
ABSENT: Chua
ABSTAIN: None

APPROVED:



Chair

ATTEST:



Secretary