

**RESOLUTION NO. 15-009**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS  
RECOMMENDING THE CITY COUNCIL TO ADOPT GENERAL PLAN  
AMENDMENT NO. 15-0001, ZONING AMENDMENT NO. 14-0011 AND  
ENVIRONMENTAL IMPACT ASSESSMENT NO. 15-0001 TO PROHIBIT ALL NEW  
RESIDENTIAL USES IN THE TOWN CENTER ZONING DISTRICT**

**WHEREAS**, on December 11, 2014, an application was submitted by the City of Milpitas Planning and Neighborhood Services Department to amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone. The properties subject to the amendment are located within the Town Center Zoning District; and

**WHEREAS**, on January 14, 2015, the Planning Commission conducted a duly noticed public meeting and adopted Resolution No. 15-001 recommending the City Council amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

**WHEREAS**, on February 3, 2015, the City Council conducted a duly noticed public hearing to consider the recommendation from the Planning Commission add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

**WHEREAS**, during the City Council meeting on February 3, 2015, the City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center; and

**WHEREAS**, Planning staff has prepared a proposed General Plan Amendment and Zoning Code Amendment consistent with the City Council’s direction to prohibit new residential development of any type in the Town Center for Planning Commission review and consideration; 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 will not have a significant effect on the environment; and

**WHEREAS**, on February 25, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

**SECTION 1:** 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:** The Planning Commission has reviewed and exercised its independent judgment on the environmental review for the General Plan Amendment and Zoning Amendment to remove residential uses from the Town Center Land Use Designation and Zone, in accordance with the requirements of CEQA, and State and local guidelines implementing CEQA, and determined that the Amendment will not have a significant effect on the environment under CEQA and State and local guidelines implementing CEQA. The General Plan Amendment and Zoning Amendment was subject to CEQA review and Initial Study/Negative Declaration (IS/ND) was prepared for the project. The IS/ND demonstrated that the subject project will not have a significant effect on the environment. There is no possibility that the amendment in question may have a significant impact on the environment because the proposed amendment will not expand the range of uses permitted in the TC Zone, nor will it increase the development intensity of uses in the TC Zone. The proposed amendment does not directly authorize any individual project and any subsequent project that will have a physical change in the environment will require environmental review and clearance. Additionally, there are no current projects under review that would be affected by the proposed amendment. Subsequent activities will require further analysis by the City in order to determine the potential impacts from development.

The Planning Commission has reviewed the Initial Study and Negative Declaration, all supporting evidence and documentation, and considered public comments provided at or before the hearing of this matter. The Initial Study and Negative Declaration reflects the Planning Commission's independent judgment and analysis as to the effects of the project on the environment. Based on the review of the entire record therein, including the Negative Declaration, the Initial Study, all supporting, referenced, and incorporated documents and all comments received, the Planning Commission finds that there is no substantial evidence that the project will have a significant effect on the environment, and that the Negative Declaration, Initial Study and supporting documents provide an adequate description of the impacts of the project and comply with the CEQA and CEQA Guidelines.

**SECTION 3: General Plan Amendment (Section XI-10-57.02.G.1a)** – The Planning Commission makes the following findings based on the evidence in the public record in support of General Plan Amendment No. GP15-0001:

- 1. The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.*

The proposed amendment is internally consistent with other elements of the General Plan. Removing the residential density provisions, description of residential uses, and the words mixed-use from Policy 2.a-I-27 from the Town Center Land Use Designation will not affect other portions of the General Plan. The Housing Element has anticipated residential growth in other land use designations throughout the City. Properties in the Town Center land use

designation are not located the Regional Housing Needs Allocation List or on the list of potential housing sites. There are no other references to residential uses in the Town Center located in the General Plan. The vision for the Town Center, as expressed by Council, is for a thriving commercial, office, entertainment, and cultural district. The proposed amendment focuses these types of uses in the Town Center and therefore promotes economic development in the City of Milpitas. Therefore, the proposed amendment is internally consistent.

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

The proposed amendment will not adversely affect the public health, safety, and welfare. As previously discussed, the Housing Element identifies numerous sites throughout the City to accommodate residential development. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. The proposed amendments will facilitate commercial, office, entertainment and cultural uses in the Town Center district. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

**SECTION 4: Zoning Text Amendment (Section 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 Amendment No. ZA14-0011:

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

Prohibiting residential uses and encouraging more commercial development meets the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. Prohibiting new residential uses will ensure land is available for the continued focus of a commercial district that provides identity for the City while allowing the surrounding residential development to support the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

**Guiding Principle 2.a-G-2** – Maintain a relatively compact urban form.

**Guiding Principle 2.a-G-4** – The Town Center will be the “heart” of Milpitas’ civic, cultural, business and professional life.

**Guiding Principle 2.a-G-10** – Consider long term planning and strong land use policy in managing the City’s fiscal position.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by using land more efficiently and will allow for additional commercial and other tax-generating uses at the street level,

thereby strengthening the City’s fiscal position while achieving a commercial district in the heart of Milpitas.

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

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

**SECTION 5:** The Planning Commission of the City of Milpitas hereby adopts this Resolution No. 15-009 recommending the City Council adopt General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and Environmental Impact Assessment No. 15-0001 to remove the words residential from the Town Center land use designation in the General Plan and to prohibit new residential uses in the Town Center zoning description as outlined in the attachments attached hereto and incorporated fully herein by reference, subject to the findings herein.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Milpitas on February 25, 2015.

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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 February 25, 2015 and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Sudhir Mandal				
Larry Ciardella				
Hon Lien				
Demetress Morris				
Rajeev Mandnawat				

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Gurdev Sandhu				
Ray Maglalang				
Zeya Mohsin (alternate)				