

REGULAR

NUMBER: 38.802

TITLE: AN UNCODIFIED INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR CONVERSIONS OF CERTAIN INDUSTRIAL AND/OR COMMERCIAL ZONES TO RESIDENTIAL ZONES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of February 7, 2012, upon motion by Councilmember Polanski and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, Government Code Section 65858 allows a city to adopt an interim ordinance prohibiting any uses which may be in conflict with any contemplated general plan, specific plan, or zoning ordinance amendment proposal which the legislative body, planning commission, or planning department is intending to study within a reasonable time, in order to protect the public safety, health and welfare; and

WHEREAS, the City of Milpitas Planning & Neighborhood Services Department and the Engineering Department are in the process of studying the cumulative effects of past and future proposed rezones of areas zoned for industrial uses to residential uses on the City’s jobs to housing balance, sewer capacity, water capacity, and other infrastructure limitations; and

WHEREAS, a public hearing was held by the City Council on February 7, 2012, after the provision of duly required legal notice under Government Code Section 65090; and

WHEREAS, at the February 7, 2012 City Council meeting, the City Council received City staff analysis and reports and received public testimony on the negative effects of ad hoc conversions of areas currently zoned for industrial uses to residential uses; and

WHEREAS, significant concerns have been raised in the community regarding the slow decay and inability of current zoning regulations and plans to address the increasing number of rezone applications, thereby threatening the historic and planned areas of the City for industrial and commercial activities and the continued protection and growth of long-term, high paying jobs; and

WHEREAS, citizens and businesses within the City of Milpitas have expressed concerns regarding the impact that a proliferation of new residential developments within or adjacent to industrial establishments within the City may negatively affect the future desirability of the City as a place for productive, employment-creating activity and possibly expose such new residential developments to harmful noise, air, and other public health impacts; and

WHEREAS, the City Council therefore finds that the approval of new applications for zoning conversions or rezones to residential uses, while possible amendments to the Zoning Ordinance and review of appropriate land use planning to maintain a healthy jobs to housing balance are being studied, could result in conflicts with any proposed amendments and would undermine the purpose of studying such amendments, thereby reducing the quality of life within the community by detrimentally affecting the overall public health, safety and welfare; and

WHEREAS, the City Council also finds that the continued ad hoc rezone of industrial properties presents a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council 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 City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. PREPARATION OF ZONING CODE AND/OR SPECIFIC PLAN AND GENERAL PLAN AMENDMENTS

The City Council hereby directs the Planning and Neighborhood Services Department to prepare a Zoning Code amendment and, if necessary, Specific Plan and General Plan amendment, governing the standards and allowable extent of rezones or conversions of areas currently zoned for industrial uses and/or commercial uses to residential uses, and to present such zoning and/or Specific Plan and General Plan amendments to the Planning Commission as soon as possible in order for the Planning Commission to make a recommendation to the City Council.

SECTION 3. TEMPORARY MORATORIUM

The City Council hereby adopts a moratorium on the acceptance, processing or approval of applications to rezone certain areas currently zoned for industrial and/or commercial uses to residential uses for an initial 45-day period, or until such time as the City concludes the review described above and amends the Zoning Ordinance and/or relevant Specific Plan and General Plan to address the negative public health, safety and welfare effects that such ad hoc conversions of existing industrial zones to residential zones have on the community. This moratorium shall apply only to applications associated with the industrial and commercial zones set forth in Exhibit 1 of this Ordinance.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council finds that adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15308 of the CEQA Guidelines.

SECTION 5. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 6. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.