

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING GENERAL PLAN AMENDMENT NO. 15-0001 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 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, 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 City Council 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 the Planning Commission recommends that the City Council 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 and adopted a resolution by a 6-1 vote recommending that the City Council approve a General Plan amendment and Zoning Code amendment to prohibit all new residential uses in the Town Center.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Council has reviewed and exercised its independent judgment on the environmental review for the General Plan Amendment (“the proposed Amendment”) to prohibit any new 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 proposed Amendment will not have a significant effect on the environment under CEQA and State and local guidelines implementing CEQA. The General Plan Amendment was subject to CEQA review and an 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 proposed Amendment will 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 City Council 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 reflect the City Council’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 City Council 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.

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

- a. 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 in 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.

b. *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 Amendment 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 continue to facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

- 4. The City Council of the City of Milpitas hereby adopts this Resolution approving General Plan Amendment No. GP15-0001 and Environmental Impact Assessment No. 15-0001 to remove the words residential from the Town Center land use designation in the General Plan as outlined in **Exhibit A** attached hereto and incorporated fully herein by reference, subject to the findings herein.

PASSED AND ADOPTED this _____ day of _____ 2015, 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

Exhibit “A”
Town Center General Plan Amendment

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-9

Table 2-3 - Standards for Density and Development Intensity

General Plan Land Use Designations	Zoning Districts																
	R1-H	R1-6	R1-5	R1-4	R1-3	R1-2.5	R2	R3	CO	C1	C2	HS	TC	M1	M2	MP	A
HILLSIDE																	
Very Low Density	●																
Low Density	● ³																
Medium Density	● ³																
VALLEY FLOOR																	
S.F. ¹ Low Density		● ⁽⁵⁾															● ³
S.F. Moderate Density			● ⁽⁸⁾	● ⁽⁸⁾	● ⁽¹⁰⁾	○ ⁽¹⁰⁾											● ⁵
M.F. ² Medium Density							● ⁽¹⁴⁾										● ³
M.F. High Density								● ⁽²⁰⁾									● ⁵
Mobil Home Park		● ⁽⁷⁾					● ⁽⁷⁾	● ⁽⁸⁾					● ⁴				● ³
Prof/Admin. Office									●								● ³
Retail Subcenter										●							● ⁵
General Commercial											●						● ³
Highway Service												●		●			● ⁵
Industrial Park																●	● ³
Manufacturing														●	●		● ⁵
Town Center													● ⁴⁰				● ⁵

<40> Maximum number of dwelling units per gross acre when specific findings are made.

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Table 2-4 - Standards for Density and Development Intensity

Land Use Designation	Residential Density (units/gross acre)	Maximum Permitted Floor-Area Ratio — FAR	Residential Population	
			Persons/Housing Unit	Persons/Acre
Commercial-Town Center	up to 40 n.a.	0.85	Varies ⁶ n.a.	Varies ⁶ n.a.

⁶ Depends on the density of housing provided.

Town Center: This designation provides for a variety of commercial, and civic ~~and residential~~ uses appropriate to the Center's role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. ~~Because of this unique and relatively intensive mix of activities, very high density residential developments (i.e., up to 40 units per acres) may be permitted within the Town Center because of the increased economic support the residents would offer to the commercial uses.~~

Implementing Policy 2.a-I-27 Develop the Town Center as an architecturally distinctive ~~mixed-use~~ complex which will add to Milpitas' identity and image.