

ORDINANCE NO. 19-006

Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations To Allow The Research and Development Use Type In The Mixed Use With Residential Zone

WHEREAS, the Emeryville General Plan Environmental Impact Report (EIR) was certified by the City Council by Resolution No. 09-207, and the Emeryville General Plan was adopted by the City Council by Resolution No. 09-208, both on October 13, 2009; and

WHEREAS, on March 11, 2019 Hong Ho of Hackman Capital Partners submitted an application to amend the Planning Regulations to allow the Research and Development use type in the MUR Mixed Use with Residential zone with a conditional use permit; and

WHEREAS, the Emeryville Planning Commission held a duly and properly noticed public hearing on the proposed amendment to the Planning Regulations on March 28, 2019 to solicit public comments and review and consider the application, and then voted unanimously to recommend approval of the proposed amendment to the City Council; and

WHEREAS, the City Council held a duly and properly noticed public hearing on the proposed amendment to the Planning Regulations on May 7, 2019 to solicit public comments and review and consider the application; and

WHEREAS, the City Council reviewed and considered the staff report and attachments thereto and all public comments for the proposed amendment to the Planning Regulations as set forth in this Ordinance and the applicable standards of the Emeryville Planning Regulations ("the Record");

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Ordinance is to amend the Planning Regulations to allow the Research and Development use type in the Mixed Use with Residential Zone with a conditional use permit.

SECTION TWO. REQUIRED FINDINGS FOR ADOPTING ORDINANCE

The City Council of the City of Emeryville makes the following findings as required by Emeryville Municipal Code Sections 9-7.1305:

- (a) The proposed amendment is consistent with the General Plan.

The proposed amendment to the Planning Regulations to allow the Research and Development use type in the MUR Mixed Use with Residential zone with a conditional use permit is consistent with the following General Plan goals and policies:

LU-G-1 *An overall balance of uses—Employment, residential, cultural, destination and local retail—as well as a full range of amenities and services necessary to support a vibrant community.*

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone adds to the overall balance of uses in the city by providing a wider range of locations and building types for Research and Development uses. This proposed amendment will potentially add to the diversity of employment opportunities in Emeryville and the vibrancy of the community.

LU-G-2 *A mixed use city—Mixed-use development in various parts of the city, with the range of permitted and required uses varying to meet the needs of specific districts and neighborhoods.*

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone increases the mix of uses conditionally permitted in a mixed use zone. The MUR zone is located throughout the city, providing opportunities for Research and Development uses to meet varying needs in different districts and neighborhoods.

LU-G-11 *A wide range of economic activity—An economy that capitalizes on Emeryville's central location, strengthens the City's tax base, and ensures that Emeryville has adequate fiscal resources to fund high quality public services for its residents and businesses.*

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone provides a greater range of potential economic activities by conditionally permitting a use that captures a diversity of activities, from small start-ups to large international businesses, that may capitalize on Emeryville's central location, strengthen the City's tax base, and ensure that Emeryville has adequate fiscal resources.

LU-G-13 *Local employment opportunities—encourage establishment of businesses that will employ and serve Emeryville residents.*

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone will provide a greater diversity of locations and building types available for Research and Development use types that will provide local employment opportunities for Emeryville residents.

LU-P-1 Land uses will be consistent with the Land Use Classifications in section 2.4 and the Land Use Diagram, Figure 2-2.

The Mixed Use with Residential land use classification is defined in section 2.4 of the General Plans as “One or more of a variety of residential and nonresidential uses, including but not limited to offices, retail and hotels. On larger sites, a mix of residential and non-residential uses is required; on smaller sites, a single use may be permitted.” Adding the Research and Development use type as a conditionally permitted use to the MUR zone is consistent with section 2.4 and Land Use Diagram, Figure 2.2 in the General Plan.

LU-P-9 Zoning performance measures will ensure health and safety compatibility for industrial uses bordering residential uses.

As the Research and Development use classification covers a diversity of establishments with varying potential impacts, the proposed Planning Regulations amendment would require a conditional use permit for the Research and Development use type in the MUR zone. This would require that findings be made per Section 9-7.505 of the Planning Regulations, and that potential impacts on air quality, light and glare, liquid or solid waste, noise, odor, and vibration be addressed through adherence to the existing Performance Standards in Article 11 of Chapter 5 of the Planning Regulations.

LU-P-29 The City will encourage the development and retention of small business, startup firms, partnership incentives, and buildings that accommodate these businesses.

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone will provide a greater diversity of locations and building types available for Research and Development use types which include small businesses and start-up firms.

LU-P-30 The City will encourage development of dynamic, leading edge industries, based in high technology, medical/bio engineering, bio technology, and media that provide good quality jobs with the potential for career advancement.

The proposed Planning Regulations amendment to allow the Research and Development use type in the MUR zone will provide a greater diversity of locations and building types available for Research and Development uses which covers a wide range of businesses that include dynamic, leading edge industries, based in high technology and engineering that provide good quality jobs with potential for career advancement.

- (b) The proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public.

The proposed amendment to the Planning Regulations will protect the public health, safety, and general welfare by requiring a conditional use permit in the Mixed Use with Residential zone. The proposed amendment will be of benefit to the public by adding to the diversity of economic and employment opportunities in the city.

- (c) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

The Environmental Impact Report for the General Plan was certified by the City Council by Resolution No. 09-207 on October 13, 2009. Since that time, there have been no substantial changes in the General Plan nor in the circumstances under which it is undertaken, nor any new information of substantial importance, that would require the preparation of a Subsequent EIR or Supplement to the EIR. Thus, the General Plan EIR applies to the proposed Planning Regulations Amendment.

SECTION THREE. AMENDING TABLE 9-3.202 OF ARTICLE 2, OF CHAPTER 3 OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE, "USES PERMITTED, CONDITIONALLY PERMITTED, AND PROHIBITED".

Table 9-3.202 of Article 2 of Chapter 3 of Title 9 of the Emeryville Municipal Code, "Uses Permitted, Conditionally Permitted, and Prohibited", is hereby amended to read as follows (changes are denoted by ~~striketrough type~~ for language that is deleted and double underlined type for new language):

Chapter 3. Zoning Districts

Article 2. Uses Permitted, Conditionally Permitted, and Prohibited

9-3.202 Uses Permitted, Conditionally Permitted and Prohibited.

Table 9-3.202: Uses Permitted, Conditionally Permitted, and Prohibited.

	Base Zones														Overlay Zones				
Use Classifications	RM	RMH	RH	MUR	MURS	MUN	OT	OT/DH	INL	INH	P	M	PO	SM	UT	PA	NR	RR	TH
Industrial																			
Research and Development	X	X	X	X	X	CM	P	C	P	C	X	X	X	X	X				

SECTION FOUR. CEQA DETERMINATION

The City Council finds and determines that the General Plan Environmental Impact Report (EIR) applies to the proposed Planning Regulations Amendment. The EIR for the General Plan was certified by the City Council by Resolution No. 09-207 on October 13, 2009. Since that time, there have been no substantial changes in the General Plan nor in the circumstances under which it is undertaken, nor any new information of substantial importance, that would require the preparation of a Subsequent EIR or Supplement to the EIR.

SECTION FIVE. SEVERABILITY

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause and phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION SIX. CODIFICATION

Section Three of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Four, Five, Six and Seven shall not be codified.


SECTION SEVEN. EFFECTIVE DATE AND POSTING

This Ordinance shall take effect 30 days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code Section 33693.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting held on Tuesday, May 7, 2019 and **PASSED AND ADOPTED** by the City Council at a regular meeting on Tuesday May 21, 2019 by the following vote:

AYES:	<u>5</u>	Mayor Medina, Vice Mayor Patz, and Council Members Bauters, Donahue, and Martinez
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

ATTEST:


CITY CLERK


MAYOR

APPROVED AS TO FORM:


CITY ATTORNEY