

EMERGENCY ORDINANCE NO. 3513

ORDINANCE OF THE CITY OF CHULA VISTA
ESTABLISHING AN INTERIM URGENCY ORDINANCE
PROHIBITING USES IN CONFLICT WITH LAND USE
AMENDMENT AND REZONING INITIATION IR19-0026 ON
THE COLLINS AEROSPACE/UNITED TECHNOLOGY
COMPANY CAMPUS THEREBY ENACTING A
MORATORIUM NECESSARY TO PROTECT THE PUBLIC
SAFETY, HEALTH AND WELFARE

WHEREAS, in 1999 the City of Chula Vista, the San Diego Unified Port District and the former redevelopment agency of the City of Chula Vista entered into a relocation agreement to create a new campus on the BF Goodrich Aerospace Aero Structures Group campus; and

WHEREAS, in order to help facilitate the development of the new campus, the City utilized its powers of eminent domain to acquire a 3.02-acre property as a legitimate and lawful investment; and

WHEREAS, over the last two decades BF Goodrich sold to United Technologies Aerospace Systems which later was converted to Collins Aerospace and manufacturing operations were eventually terminated in 2020; and

WHEREAS, with the decision to cease all industrial manufacturing operations at the site and sell the property, it was appropriate to reevaluate the long-term vision for this special property that will be surrounded by residential, hotel, and other visitor serving uses on the Chula Vista Bayfront (the "Bayfront"); and

WHEREAS, on June 18, 2019 the City Council held a public hearing to consider a land use amendment and rezoning initiation request (IR19-0026) pursuant to Chula Vista Municipal Code (CVMC) Section 19.14.830; and

WHEREAS, at the conclusion of the June 18, 2019 public hearing, the City Council adopted Resolution 2019-127 making the following findings: 1) That the proposed Land Use Plan Amendment is consistent with the goals and policies of the General Plan; 2) That the proposed Land Use Amendment provides equal or greater public benefit to the community as compared to the existing land use designation, density/intensity range, or plan policy; and 3) Public facilities are available to serve the proposed change in land use designation or density/intensity, or their provision will be addressed as a component of the Land Use Plan Amendment; and

WHEREAS, on June 18, 2019 the City Council also approved Land Use Amendment Initiation Request IR19-0026 and directed staff to proceed with processing of a General Plan Amendment; and

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WHEREAS, since June 2019, city staff has been in communication with Collins Aerospace and Penwood Wohl, their selected buyer, on more than 50 separate, documented occasions; and

WHEREAS, in October 2019, staff provided land use recommendations to Collins Aerospace and Penwood Wohl that would support the realization of the larger vision for the site as a high-quality, regional visitor-serving destination on the Bayfront; and

WHEREAS, in April 2021, Penwood Wohl submitted a pre-application for redevelopment of the property for industrial use (IR21-0014), against the land use recommendations previously provided by staff in October 2019 and in conflict with the actions already taken by the City Council in June 2019; and

WHEREAS, such industrial uses as proposed in the pre-application are in conflict with the larger vision for the site and its adjacency to the Bayfront and surrounding residential, hotel and regional visitor-serving land uses and therefore City staff and the City Council must take urgent action to preserve the integrity of the site and protect the public safety, health and welfare; and

WHEREAS, pursuant to CVMC Section 19.12.130, the City Council may adopt an interim ordinance to prohibit such uses in conflict with previous land use actions already taken.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

Section I. Interim Urgency Ordinance Findings

The City Council does hereby approve, accept as its own, incorporate as set forth in full herein, and make each and every one of the findings contained in this Ordinance pursuant to Gov. Code 65858(c) as follows:

- A. That there is a current and immediate threat to the public health, safety, and 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, and welfare.
- B. That such industrial uses as proposed in the pre-application are in conflict with the larger vision for the site and its adjacency to the Bayfront and surrounding residential, hotel and regional visitor-serving land uses and therefore City staff and the City Council must take urgent action to preserve the integrity of the site and protect the public health, safety, and welfare.
- C. That financial tax revenue to the City resulting from uses allowed in the general industrial zone may not support the impacts on adjacent public infrastructure including roads, public safety facilities, and pedestrian circulation further exacerbating the protection of the public's health, safety and welfare.

- D. That previous uses of the property have resulted in significant subsurface soil and groundwater contamination that has not been fully analyzed and evaluated in order for uses allowed in the industrial zone to be determined to be safe for public occupation.
- E. That in response to the subsurface soil and groundwater contamination, the San Diego Regional Water Quality Control Board recently released a public review draft of Clean Up and Abatement Order R9-2021-0042 that identifies the project site as containing high levels of contamination located both in the soil and groundwater. With this Interim Urgency Ordinance in place, the property can now be evaluated through a comprehensive planning effort so redevelopment of the property will protect the health and wellness of employees, contractors, and future visitors to the project site.
- F. That the property being proposed for development was covered by a Specific Plan approved by the City and new proposals have not been evaluated from a planning perspective for compatible uses and adjacency conflicts since the Chula Vista Bayfront Master Plan was approved by the City, Port of San Diego, and the California Coastal Commission, again further exacerbating the protection of the public's health, safety and welfare.
- G. That the current and prospective owners of the property previously committed at a public hearing to City Council that they would conduct a comprehensive planning analysis of the potential redevelopment of the property prior to pursuing any development proposal in response to the City's concern for a cohesive development pattern adjacent to the Bayfront Hotel and Convention Center.

Section II. Establish Interim Urgency Ordinance

An interim urgency ordinance shall be established to prohibit uses in conflict with land use amendment and rezoning initiation IR19-0026 on the Collins Aerospace/United Technology Company Campus thereby enacting a moratorium necessary to protect the public safety, health and welfare pursuant to CVMC Section 19.12.130. A 4/5 vote of the City Council is required for the interim urgency ordinance's passage.

Section III. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

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Section IV. Effective Date

Pursuant to Government Code 36937, this interim urgency ordinance shall take effect and be in force on the evening of its passage and shall remain in effect for 90 days. Two one-year-extensions to the interim urgency ordinance may be implemented following a public hearing and 4/5 vote of the City Council pursuant to CVMC 19.12.060 through 19.12.080.

Section V. Due Process

Where a property owner alleges that a moratorium would cause undue hardship on his property to the extent that it would constitute a “taking” of property, the owner may request a public hearing by the City Council to determine if the property owner is entitled to relief from the effects of the moratorium. The City Council shall hold said public hearing within three weeks from receipt of a written request from the property owner. At the public hearing, the property owner shall set forth all reasons why relief is appropriate and the City Council may approve, conditionally approve, or deny relief from the restrictions of the interim urgency ordinance.

Section VI. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

SIGNATURES ON THE FOLLOWING PAGE

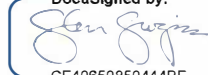
Presented by

Approved as to form by

DocuSigned by:

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Tiffany Allen
Director of Development Services

DocuSigned by:

CF408508504444BE

Glen R. Googins
City Attorney

DocuSigned by:

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Eric C. Crockett
Deputy City Manager/Director of Economic Development

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 28th day of September 2021, by the following vote:

AYES:	Councilmembers:	Cardenas, Galvez, McCann, Padilla, and Casillas Salas
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None

DocuSigned by:

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Mary Casillas Salas, Mayor

ATTEST:

DocuSigned by:


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Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3513 was passed as an emergency measure on the 28th day of September 2021; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 28th day of September 2021.

DocuSigned by:

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Kerry K. Bigelow, MMC, City Clerk