



## COMMUNITY DEVELOPMENT DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: July 2, 2024

#### Subject

Repeal of the existing General Plan Amendment (GPA) Authorization procedure and process.

#### Recommended Action

Adopt Resolution No. 24-XXXX (Attachment A) repealing the existing General Plan Amendment Authorization procedure and process and rescinding Resolution 15-078.

#### Reasons for Recommendation

Since the City adopted the GPA Authorization Procedure in 2015, several concerns about the process have been received and observed:

- There has been misunderstanding of the City Council's authorization to apply for a GPA and related approvals constitutes final approval of the project.
- The procedure has created an additional process and increased the overall project review and process time.
- The community benefits proposed by projects have been inconsistent and have not necessarily provided the intended benefits.
- The procedure does not provide guidance about the process for changing the project after GPA authorization. Therefore, project modifications after the GPA Authorization procedure process would trigger re-authorization.

#### *Background*

On September 1, 2015, the City Council adopted Resolution 15-078 (Attachment B) which established the City's policy for processing GPA Authorization applications. Attachment C illustrates the current process. Since the adoption of the resolution in 2015, there have been nine projects in the last nine years (Attachment D) that were processed with the GPA Authorization procedure. A few cities in the Santa Clara County, greater Bay Area and Southern California have also established GPA screening procedures. Examples of those cities are listed in Attachment E. Prior to the adoption of the resolution, City staff reviewed applications for proposed development projects concurrently with any proposed GPA application and environmental review for the project. Project review included review to ensure that the proposal was consistent with the General Plan or any proposed amendment to the General Plan and compliance with zoning regulations. If an applicant sought a Development Agreement to protect the project against future changes in land use regulations, negotiation of the agreement would be conducted by City staff, including the community benefits the developer would provide in exchange for

vested rights to proceed with the approved project. Staff involved in the negotiation included the City Manager, City Attorney, Director and Assistant Director of Community Development, Planning Manager, and the assigned project manager. Public input about the project was solicited through neighborhood or citywide noticing, legal notices for meetings, site signage, and neighborhood meetings. Upon completion of environmental and project review and any negotiations for a Development Agreement, the public could provide input on the final decision in public hearings before the Planning Commission and City Council.

While State Planning and Zoning Law limits the number of times a City may amend its general plan to four times in one year, the City, when establishing the authorization process, did not limit the number of GPA authorization applications that could be filed and processed in any given year. However, the practice has been to group GPA authorization applications and agendaize them for Council consideration twice per year, generally in late-May/early-June and late-November. A GPA authorization application has not been submitted for Council consideration since 2021.

The Council held a study session on June 30, 2015, to review a proposed policy for processing GPA applications. The policy was developed upon consideration of concerns received during the outreach process, such as to provide for more orderly development, to ensure that additional development improved quality of life for the community, to provide opportunity for early community input, to avoid an unnecessarily complex, costly, and time-consuming process, and to provide City Council direction early in the process.

After considering the benefits and disadvantages of different approaches to manage development by other cities, input from the public, and the staff's draft policy, the City Council directed staff to draft a policy for amendments to the General Plan. On September 1, 2015, the City Council adopted Resolution 15-078 which established the City's standalone policy for processing GPA Authorization applications (see Attachment B).

### *Conclusion*

In the nine years since the 2015 adoption of the GPA Authorization procedures, there have only been nine projects that were processed through the new procedures (see Attachment D). Majority of the cities in Santa Clara County and the Bay Area do not establish a separate GPA screening procedure. Some examples of cities with separate screening procedures are listed in Attachment E. Additionally, several concerns about the procedure have been received and observed, such as misunderstanding of the GPA project approval and modification process, increased overall project review time and resources, inconsistent community benefits received from projects, and the misconception of quid pro quo for private developments. City of Cupertino's GPA review procedure is consistent with industry standards and state requirements. An additional screening procedure does not necessarily provide early community and Council input since projects typically evolve in the process and the authorization procedure does not indicate specific criteria for reevaluation. The GPA Authorization procedure adds an extra process to an existing review process and may be interpreted as an impediment to development.

Therefore, staff recommends City Council adopt Resolution No. 24-XXXX (Attachment A) repealing the existing General Plan Amendment Authorization procedure and process and rescinding Resolution 15-078.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No fiscal impact.

California Environmental Quality Act

Not applicable. Individual General Plan amendments would be reviewed under CEQA unless a statutory or categorical exemption were to apply.

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Attachments:

- A. City Council Resolution xx-xxx
- B. City Council Resolution 15-078
- C. Flowchart indicating GPA Authorization Process
- D. GPA Authorization projects since 2015
- E. List of cities with GPA initiation/screening/authorization procedures