

CC 9-20-2022

Study Session #1

SB 9 Study Session  
Review of Objective  
Standards

Presentation

# SB 9 Study Session Review of Objective Standards

City Council  
September 20, 2022



**CITY OF  
CUPERTINO**

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## Background

- Senate Bill 9 effective January 1, 2022
- Urgency / Interim Ordinance 21-2235 adopted on December 21, 2021
  - Expires on December 19, 2022
- Planning Commission – October 11, 2022
- CC 1<sup>st</sup> Reading – November 1, 2022 (*tentative*)
- CC 2<sup>nd</sup> Reading – November 15, 2022 (*tentative*)
- Effective Date – December 15, 2022 (*anticipated*)

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## State Law Overview

Senate Bill 9 (Atkins, 2021) conditionally allows ministerial approval of:



Two units on one  
Single Family lot



Urban Lot Split –  
Two-lot subdivision

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## State Law Overview

### Development Criteria:

- In Single Family zoning
- Cannot demolish affordable or rental housing
- Not in sensitive areas identified under SB 35
- Not a historic landmark or in historic district
- No short-term rentals permitted

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## State Law Overview

### **Additional Urban Lot Split Criteria:**

- Must reside on one lot for at least three years
- Resulting lots must be 1,200 square feet min.
- Resulting lot area must be 40% of original lot
- SB 9 lot split can only be used once
- SB 9 lot split cannot be used by same owner across neighboring lots
- Lots created must be limited to residential use

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## State Law Overview

### **Development Allowances:**

- Unit Size - 800 square feet
- Setback – 4 feet
  - No setback if built within existing structure footprint
- One parking space per unit

### **Urban Lot Split Allowances:**

- No off-site improvements required
- Non-conforming zoning conditions can remain

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## Objective Standards

State law supersedes certain City regulations for subdivisions and development standards.

City may impose regulations that are:

- Objective
- Do not prevent Urban Lot Splits or two 800 sq. ft. units

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## Ordinance Aims

Objective standards have been adopted to:

1. Preserve neighborhood character;
2. Maintain privacy protection;
3. Minimize traffic conflicts; and
4. Protect environmental resources.

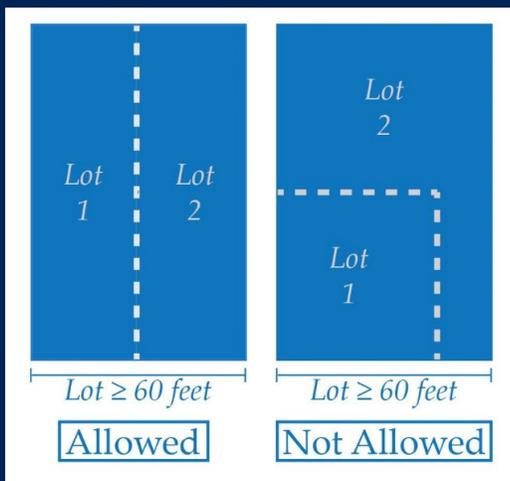
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## Areas of discussion

- Other existing interim ordinance standards to remain
- Staff requests input in following areas:
  - a. Lot configuration
  - b. Second story decks and balconies
  - c. Grade change limitation
  - d. Zero-foot setback allowance
  - e. Second story building envelope

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## Lot Configuration – Urban Lot Splits



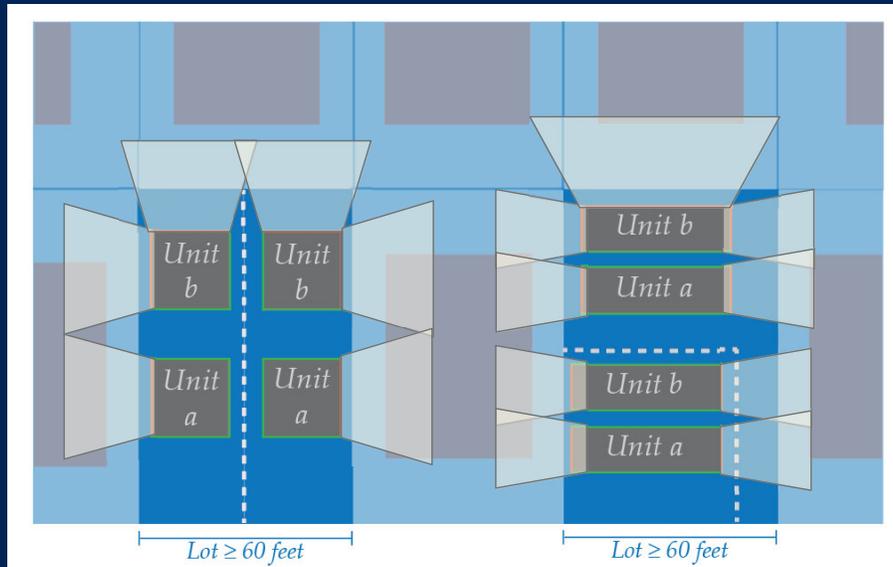
- Regulations adopted result in specified lot configurations based on existing lot shape.
- Interior/Pie-shaped lots  $\geq 60$  feet, side-by-side lots.
- Interior/Pie-shaped lots  $< 60$  feet, flag lots.

### Why?

- Consistent with GP Strategy 27.7.2
- Only 1.7% of R1 lots in City are flag lots
- Reduce excess hardscape (long driveway)
- Privacy Concerns

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# Lot Configuration - Privacy



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## Lot Configuration

Comments have noted that this standard:

- a. Limits development potential
- b. Does not reflect pattern of lot configuration in City (**only 1.7% of R1 lots are flag lots in CU**)
- c. Creates lots that are too narrow to accommodate two-unit development  
(**Concerns potentially addressed by zero-foot setback allowance**)

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## City Council Direction - Lot Configuration

- a. Retain existing lot configuration standards? or
- b. Modify regulations to allow flag lots on lots of all widths?

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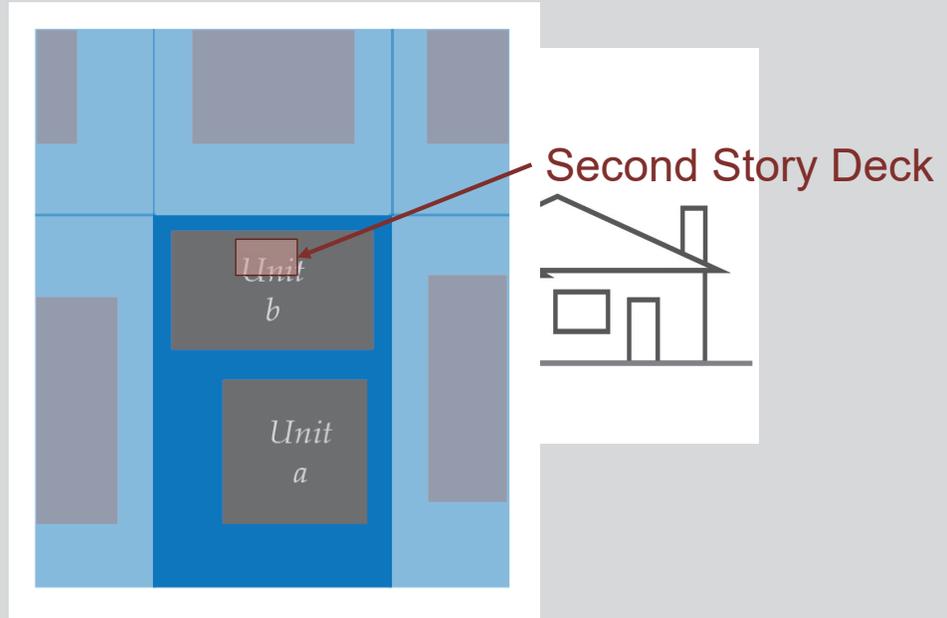
## Second Story Decks

- Disallowed in SB9 developments in R1 **and RHS\*** zones due to:
  - Privacy Concerns from smaller, narrower lots
  - Ministerial nature of permit issuance
- After SB 9 permits, balconies allowed in:
  - R1 zones with discretionary Minor Residential permits
  - RHS zones with Building Permit \*

\* Correction since staff report published on 9/14

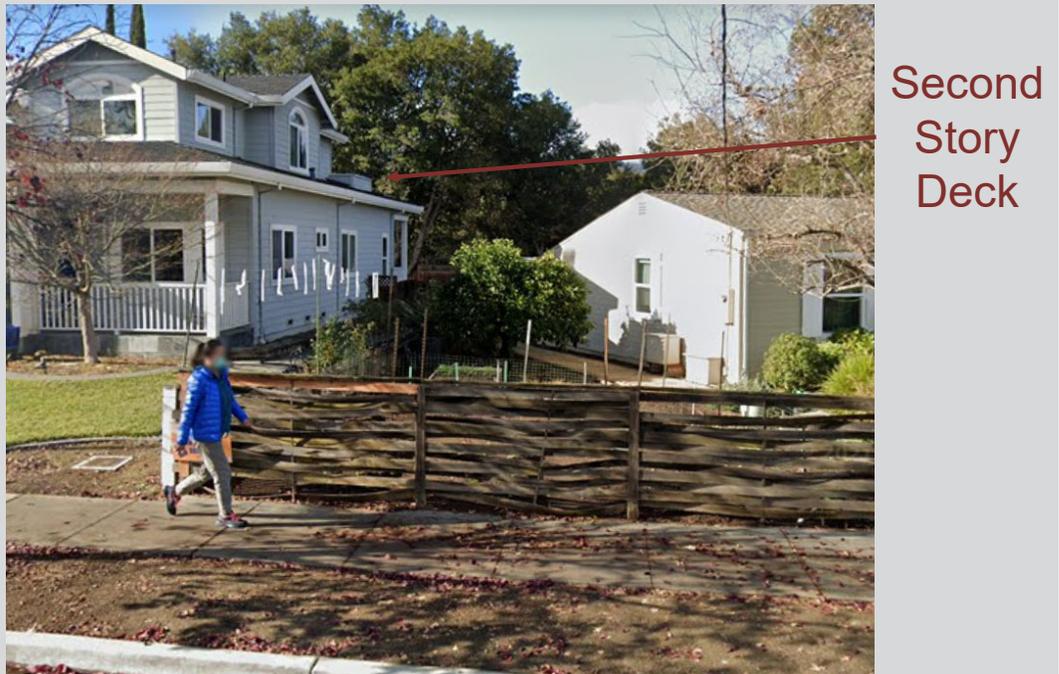
14

# Second Story Decks



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# Second Story Decks



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# Second Story Decks



Second Story Deck

17

# Second Story Decks



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## Second Story Decks



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## City Council Direction - Second Story Decks

- a. Retain existing second story deck and balcony regulations?  
or
- b. Modify regulations to disallow them:
  - i. ~~In RHS zones; or~~ \*
  - ii. For all future lots and homes developed using SB 9?

\* Update since staff report published on 9/14

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# Grade Change Limitation

- Urban Lot Splits: Change in natural grade > six inches disallowed
- Does not apply to homes built under SB 9

## Why does it matter?

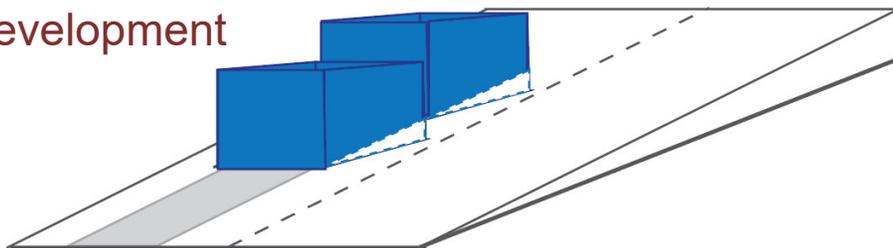
- Increased height and privacy impacts
- May substantially alter natural contours
- Exorbitant cuts leading to significant environmental impacts



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# Grade Change Limitation

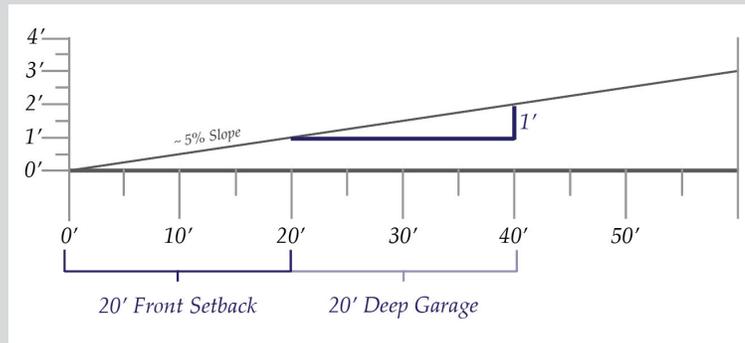
Residential  
Development



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## Grade Change Limitation

Existing standard may be too restrictive.



One property owner noted that this standard limited their ability to pursue an Urban Lot Split.

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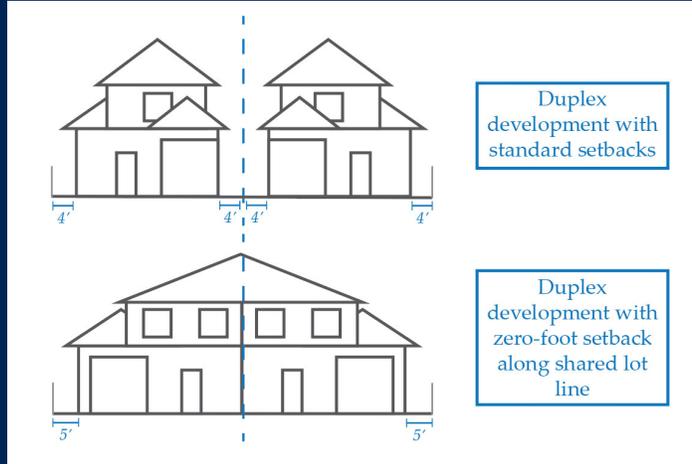
## City Council Direction - Grade Change Limitation

- a. Retain existing grade change limitations?  
or
- b. Modify regulations and apply to both Urban Lot Splits and SB 9 developments?

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# Zero-Foot Setback

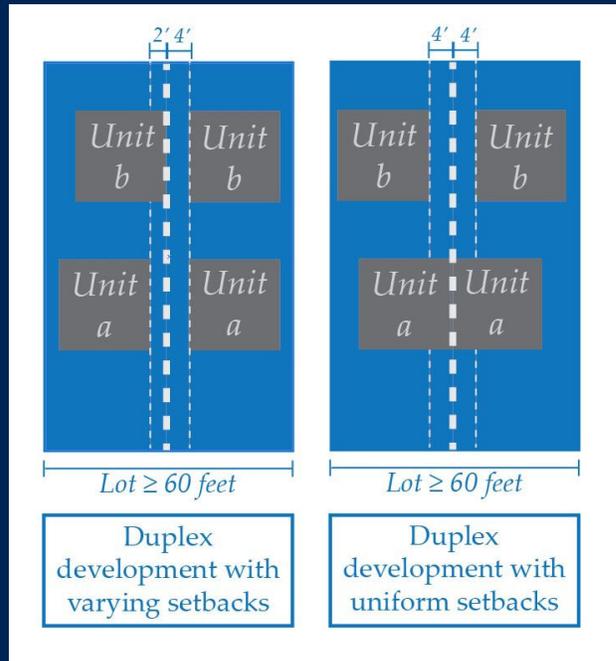
- Applies to new shared property lines in side yards
- Proposed for inclusion by Vice Mayor Chao
- Adopted to incentivize increased setback along other side property lines



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# Zero-Foot Setback

- Potential to result in setbacks of varying size between 0-feet and 4-feet
- Contrary to intent
- Inconsistent application of side yard setback



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## Zero-Foot Setback

Staff proposes clarification by allowing zero-foot setbacks only if:

- a) Other side yard setback is minimum of five feet on first floor and 10 feet on second floor; and
- b) Units along 0-foot setback developed at same time; and
- c) Entirety of wall faces with zero-foot setback are structurally attached.

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## City Council Direction - Zero-Foot Setback

- a. Retain existing zero-foot setback allowance?  
or
- b. Modify regulations to either...
  - i. Clarify objective design standards; or
  - ii. Require 4-foot setback, consistent with state law?

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# Second Story Envelope

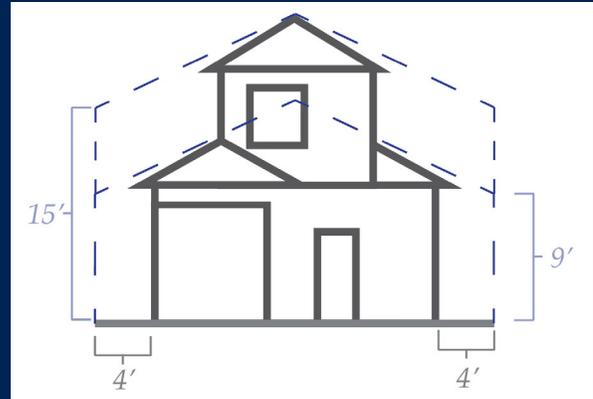
Regulations require 2<sup>nd</sup> story to comply with a building envelope

## Why?

- Privacy concerns
- Massing concerns

One member of public commented:

- Limits modern designs (**walls can be stacked, with more setback**)
- Limits development potential (**does not restrict floor area**)



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## City Council Direction - Second Story Envelope

- a. Retain existing second story building envelope regulations? or
- b. Modify regulations to eliminate the requirement?

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# Council Direction Summary

## Flag Lot Configuration

- a. Retain existing lot configuration standards?
- b. Modify regulations to allow flag lots on lots of all widths?

## Second Story Decks and Balconies

- a. Retain existing second story deck and balcony regulations?
- b. Modify regulations to disallow them:
  - i. ~~In RHS zones; or~~\*
  - ii. For all future lots and development using SB 9?

**\* Updated since staff report published on 9/14**

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# Council Direction Summary

## Grading Change Limitation

- a. Retain existing grade change limitations?
- b. Modify regulations and apply to both Urban Lot Splits and SB 9 developments?

## Zero-Foot Setback

- a. Retain existing zero-foot setback allowance?
- b. Modify regulations to either...
  - i. Clarify objective design standards; or
  - ii. Require 4-foot setback, consistent with state law?

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# Council Direction Summary

## Second Story Building Envelope

- a. Retain existing second story building envelope regulations?
- b. Modify regulations to eliminate the requirement?

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# Next Steps

## Community Meeting

Wednesday, September 28, 2022 at 6 p.m.

## Planning Commission

Tuesday, October 11, 2022

## City Council

Tuesday, November 1, 2022 *(tentative)*

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# Questions

Questions, comments, or suggestions?

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#5

FY 21-22 & FY 22-23 City  
Work Program Report on  
Homeless Jobs Program

Presentation

# FY 21-22 & FY 22-23 City Work Program: Report on Homeless Jobs Program



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Kerri Heusler, Housing Manager

September 20, 2022

## Objective

- FY 21-22 & FY 22-23 City Work Program (CWP) item
- Provide employment for two unhoused residents for up to six months
- City budget: \$200,000 / annually

# Program Administrator

- West Valley Community Services (WVCS)
- WVCS selected by RFP

## WVCS

- Coordinates with several regional employment services
- Expanded the Haven to Home program to provide local employment services in Cupertino

## WVCS Contract Amount

- City budget: \$200,000 / annually
- FY 21-22: \$169,058
- FY 22-23: \$190,900

# CWP Homeless Jobs Program

- Two unhoused residents selected from Cupertino
- Employment provided in Cupertino at WVCS

## **CWP Homeless Jobs Program *cont...***

- Two full-time positions with WVCS including salary & benefits
- Work clothing
- Motel payment & housing search
- Training & job coaching
- Case management

## FY 21-22 Homeless Jobs Program

- Client #1
  - Food Programs Assistant
- Client #2
  - Facilities Assistant

## FY 22-23 Homeless Jobs Program

- Client #3
  - Market Associate
- Client #4
  - Facilities Associate



# Questions & Answers

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#8

Department Update

Public Works

Presentation

# Public Works Department

City Council update 9/20/2022



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# Department Overview

Capital Improvements  
Development Services  
Transportation  
Environmental Programs  
Facilities and Fleet  
Grounds  
Streets and Storm Drains  
Trees and Right-of-Way

# Capital Improvement Program



Memorial Park Ponds



Memorial Park Outreach



Get involved to  
**revitalize**  
**Memorial Park**



**Online Survey**  
Open through  
October 9



**Virtual Webinar**  
September 15



**Pop-Up at  
Cupertino Library**  
September 17

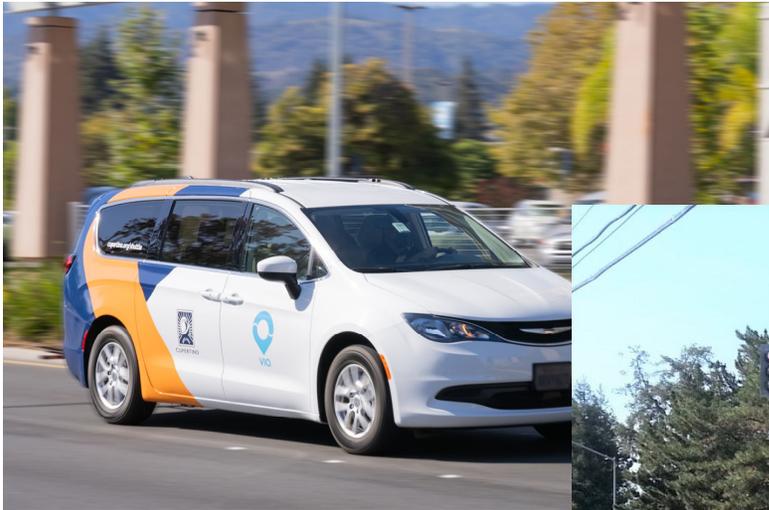


**Pop-Up at  
Day 'N Night  
Fun Fest**  
September 24



**Pop-Up at  
Bay Area Diwali**  
October 8

# Transportation



Via Shuttle



Separated Bikeways



Safe Routes to School

## Environmental Programs



# Operations



SCB Median Work



Maintaining Assets



Growing Urban Forest

# Public Works Department



[www.Cupertino.org/311](http://www.Cupertino.org/311)

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#14

Via-Cupertino Pilot  
Program Overview &  
Expansion

Presentation

# Via-Cupertino Pilot Program Overview & Expansion

Department of Public Works

September 20, 2022



# Pilot Program Background

- October 2019 – September 2022
- 13-month pause taken due to COVID-19
- Re-launch October 2021
- August ridership highest since re-launch: 2,012

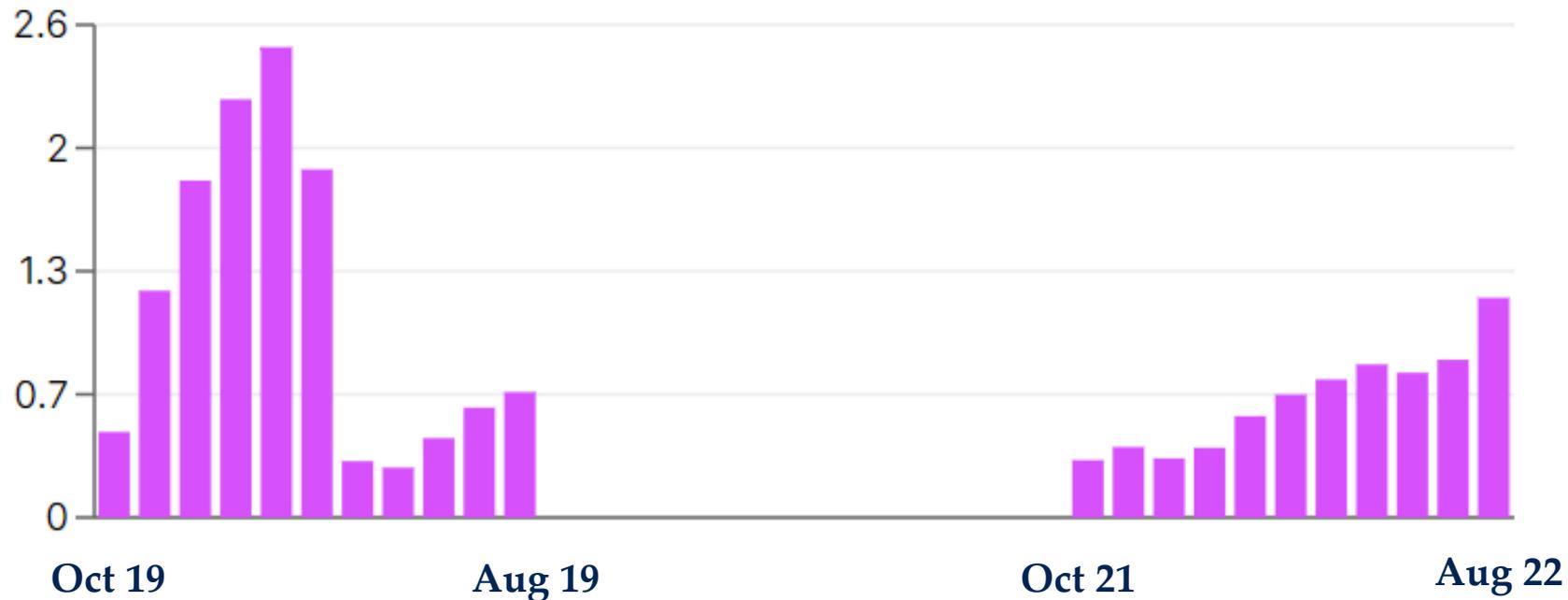
## Ridership Data

- Total trips taken: 25,836
- Average ride rating: 4.9 stars
- Average trip distance: 2.7 miles
- Average wait time: 10 minutes
- Farebox revenue: \$34,750

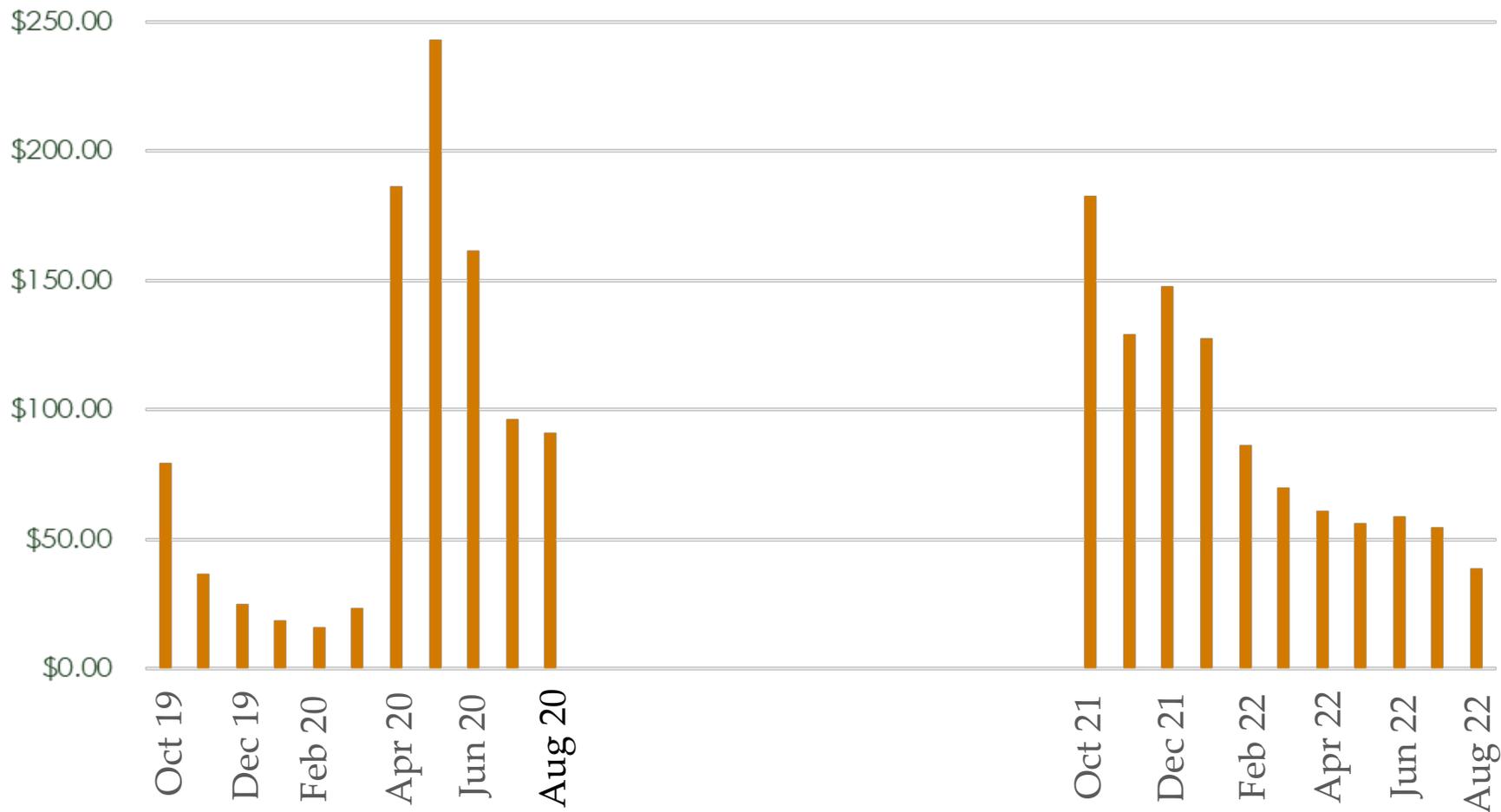
## Utilization

Completed rides / net driver hours.

Utilization Rate



# Average Cost Per Trip Subsidy



## 2021 Survey Data

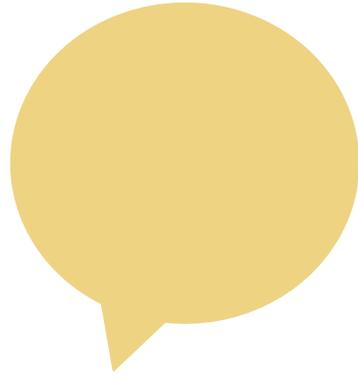
A 2021 survey of 150 individuals highlighted various reasons for using the service:

Work Commuting	-	28%
Daily errands	-	28%
Healthcare Visits	-	20%
Travel to/from school	-	20%

## What are riders saying about Via Cupertino\*?



**“Our school has no nearby bus stops so Via my main form of transportation.”**



**“Via is essential for linking Cupertino to Caltrain.”**



**“Via is amazing. It was a life changing experience. It was also quick and affordable!”**



**“I need Via to get to Kaiser and DeAnza.”**

*\*Source: Via Cupertino Rider Survey 2021-2022*

## **From Pilot Program to Program.**

1. Pilot Program is a success
2. Via desired in surrounding communities
3. Community supports EV fleet
4. Mtn View Caltrain & El Camino Hospital requested frequently

We now have an opportunity to expand Via and continue service for 5 years.

## Recommended Actions

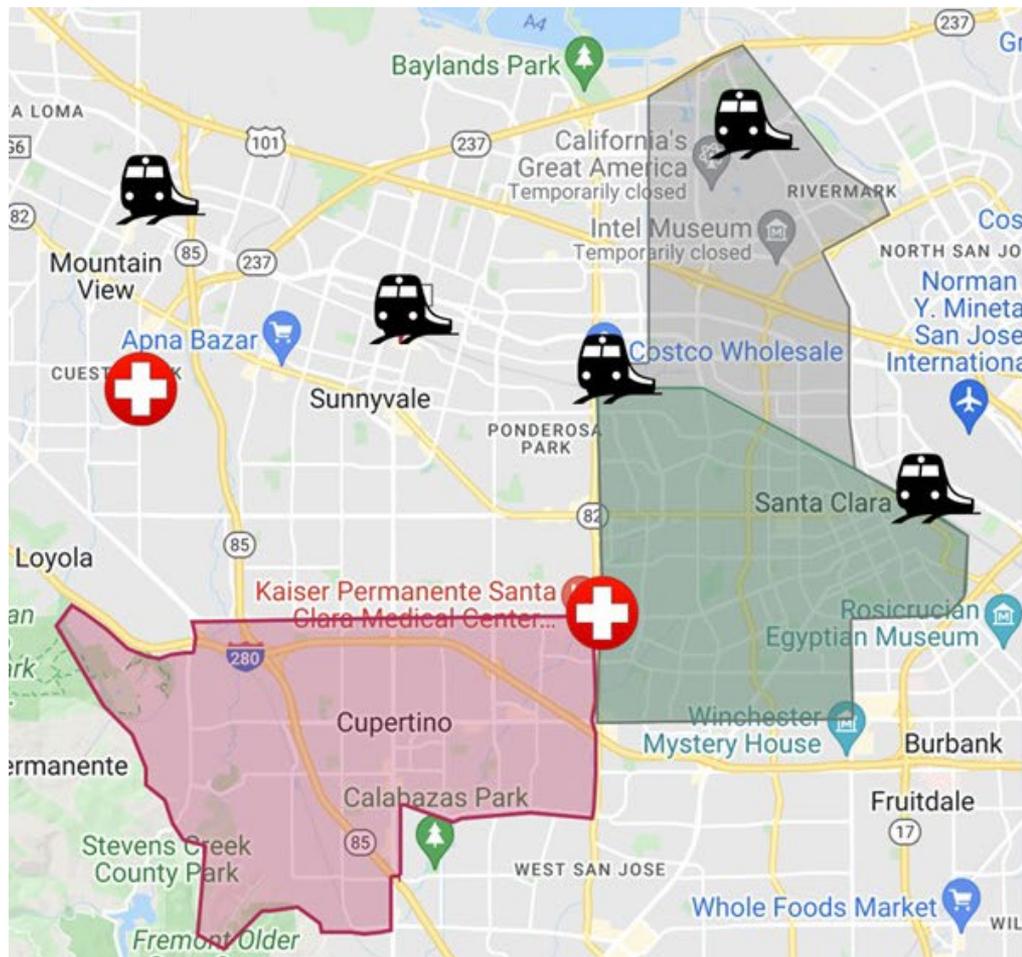
- Accept CalSTA Grant: \$8,465,000
- Authorize Contract Extension to June 2023
- Adopt Reso. 22-XXX increasing budget by \$200,000
- Dispense with City Bidding Requirements

# Recommended Actions

## Accept CalSTA Grant Funds

- \$8,465,000 over a 5-year period
- 50% match for Cupertino & Santa Clara
- Costs scale up from year 1 to 5, allowing time to procure additional funds.
- Funds administered retroactively & monthly once project begins.

# Via – Cupertino Expansion Map



## Expansion Map



16 Total EVs



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Cupertino (RED)  
11.5 Sq Miles



Santa Clara (GREEN / GREY)  
8.5 / 15 Sq Miles (Phase I / II)



Medical Center



Caltrain / Rail Station

# Recommended Actions

## Via Contract Extension

- \$200,000 to extend service to April 2023
- Existing contract to expire in October 2022
- Funds have lasted longer than envisioned during 18-month pilot due to COVID-19.

# Recommended Actions

## Dispense with Bidding Requirements

- Via is a named partner in CalSTA expansion
- Grant award is for an expansion of an existing program
- Via's has met or exceeded expectations during the pilot program
- CAO supports the exception request based on the criteria outlined in the municipal code.

## Next Steps

January 2023

March 2023

April 2023

## Upcoming Council Meetings

Caltrans Master Agreement  
City of Santa Clara Funding Agreement  
Expansion Funding Request

Project update prior to April 2023 launch.

Estimated launch date

# Via-Cupertino Pilot Program Overview & Expansion

Department of Public Works

September 20, 2022



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#18

Update on Community  
Funding Grant Program

Presentation

# Update on the Cupertino Community Funding Grant Program

Cupertino City Council

September 20, 2022



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# Agenda

- Background
- Grant Program Process
- Historical Funding
- Council Subcommittee
- Current Eligibility Criteria
- General Plan Guiding Principles
- Next Steps



## Background

- Since 2013, the City's Community Funding Grant Program has been awarding funding to local non-profit organizations
  - Social services
  - Fine arts
  - Other programs for the general public
- Historically, City Council solely determined the organizations to be awarded funds



## Background Continued

- On June 5th, 2018, City Council directed City Staff to update the policy and process
  - Community funding applications are now presented to the Parks and Recreation Commission for a recommendation before presenting to Council
- Application Period: January – February 1
- Range \$70,000 to \$90,000 per year
  - Awards shall not exceed \$20,000 per applicant, per year

# Grant Program Process



City Staff review applications for completeness & compliance



Applications sent to Parks & Recreation Commission for evaluation and recommendation to City Council



City Council considers grant requests during Budget Study Session as part of budget adoption



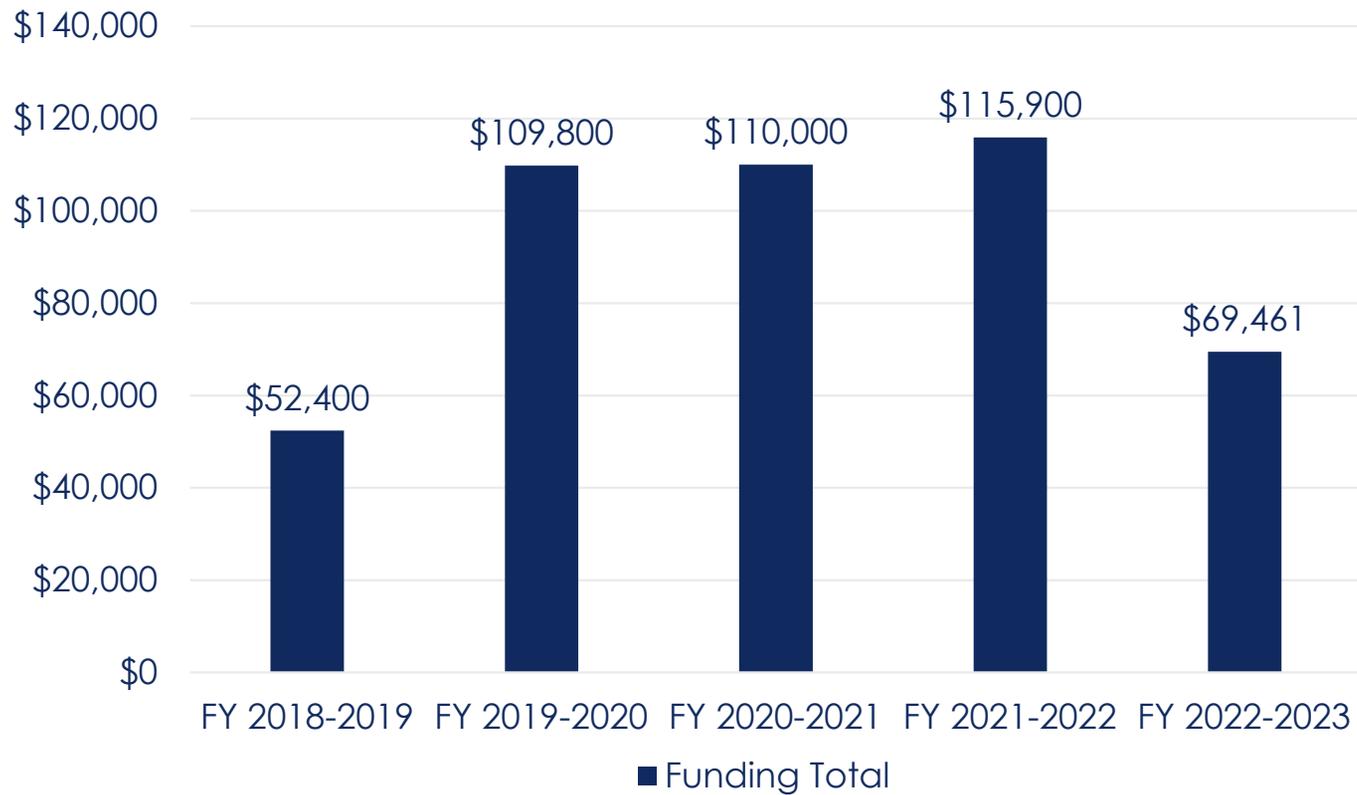
After final budget adoption, City Staff coordinate funding agreements with awarded organizations



The next year, grant recipients submit a written report to show proof grant funds have been spent in the manner stated in their application

# Historical Funding

## Funding Received FY 2019-2023



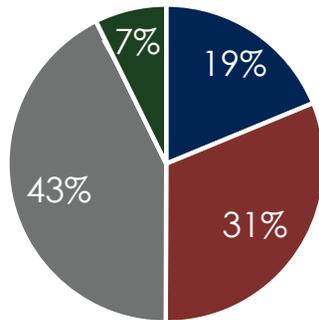


## Council Subcommittee

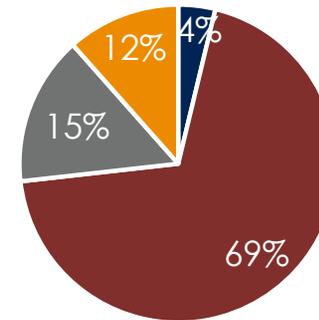
- Council Subcommittee formed on June 4<sup>th</sup>, 2021 to review the Grant Program evaluation process and procedures for upcoming funding cycles
- On March 9, 2022, Council Subcommittee directed City Staff to clarify additional eligibility & evaluation criteria and provide an update on the grant process

# Historical Funding Recipients

FY 2021-2022



FY 2022-2023



■ Art ■ Education ■ Events ■ Health ■ Site Improvements

■ Art ■ Education ■ Events ■ Health ■ Site Improvements



## Current Eligibility Criteria

- Be made or sponsored by a 501(c)(3) non-profit organization with experienced members capable of implementing and managing the program/project/event
- Identify how the funds will be used to benefit the Cupertino community
- Be awarded only once per project
- For specific needs, not ongoing, operational costs
- Have more than 75% of the requested funds allocated for direct service costs versus administrative costs
- Be complete and submitted by the application deadline

# General Plan Guiding Principles

Develop  
Cohesive  
Neighborhoods

Improve Public  
Health And  
Safety

Improve  
Connectivity

Enhance  
Mobility

Ensure A  
Balanced  
Community

Support Vibrant  
And Mixed-Use  
Businesses

Ensure  
Attractive  
Community  
Design

Embrace  
Diversity

Support  
Education

Preserve the  
Environment

Ensure Fiscal  
Self Reliance

Ensure A  
Responsive  
Government



## Next Steps

- Fiscal Impact
  - If City Council approves to continue allocating funding to the Cupertino Community Funding Grant Program, this will be included in the annual budget for Fiscal Year 2023-2024
- City Staff will update the Community Funding Grant Policy in addition to eligibility requirements, evaluation criteria, and the City webpage based on City Council direction.

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#19

Conflict of Interest Code

Presentation

# Conflict of Interest Code

Cupertino City Council  
September 20, 2022



**CUPERTINO**

# Conflict of Interest Code

Per State law (Political Reform Act, Gov Code section 81000 et seq.) cities must:

- Establish a list of positions based on position's level of decision making
- Ensure disclosure of potential conflicts
- Narrowly tailor disclosure requirements
- Make amendments when circumstances have changed
- City Manager reports necessary amendments
- City Council directs review and adoption

# Draft Resolution

Makes clarifying amendments to the code:

- Adds Economic Development Committee
- Adds 12 positions
- Deletes 2 positions

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# Local Agency Biennial Notice

- Agencies must review the code biennially
- Must be submitted to Council by October 3
- Verifies review and any amendments to the code
- Draft Notice is consistent with FPPC regulations



## Recommended Action:

- a.) Adopt Resolution No. 22-120 rescinding Resolution No. 20-115 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees; and
- b.) Authorize the City Manager to sign the required 2022 Local Agency Biennial Notice

CC 9-20-2022

#20

Regnart Creek  
Trail/Campo de Lozano  
Midblock Pedestrian  
Crosswalk and Public  
Pedestrian Walkway  
Easement Signage

Presentation

# City Council

## Regnart Creek Trail/Campo de Lozano Midblock Pedestrian Crosswalk and Public Pedestrian Walkway Easement Signage



CUPERTINO

September 20, 2022

## History

- Campo de Lozano developed early 2000's
- Included 400' Regnart Creek Trail along southern boundary
- City requested and was granted 10' wide pedestrian easement along western boundary to connect Regnart Creek Trail to public sidewalks along Rodrigues
- Trail connects to publicly accessible sidewalks at eastern end

## History

- City approved extension of Regnart Creek Trail in 2020, including a continuation westward from Campo de Lozano to Rodrigues and City Center
- HOA requested City vacate easement, due to new connectivity to the west and security concerns
- Public opening of Regnart Creek Trail anticipated late 2022

## History

- City Council discussed pathway and pedestrian access on February 1 and March 1, 2022. Directed staff to:
  - Monitor trail and pathway usage and return to Council after one year with report on whether pathway should remain
  - Return to Council sooner with crosswalk concepts, including safety, and signage suggestions



## Considerations – Midblock Crosswalk

- Midblock crosswalks discouraged
  - Difficult to channelize pedestrians
  - Unexpected by drivers
  - Site distance for approaching vehicles important
- Crosswalk at walkway not possible due to driveway, fire hydrant, storm drain, and inadequate site distance
- Minimum stopping site distance per HDM: 200 feet at 30 mph
- Any midblock crossing would need to be enhanced with high visibility striping, advance warning and pedestrian-actuated flashing beacons
- Approximate cost \$40,000

# At Pathway

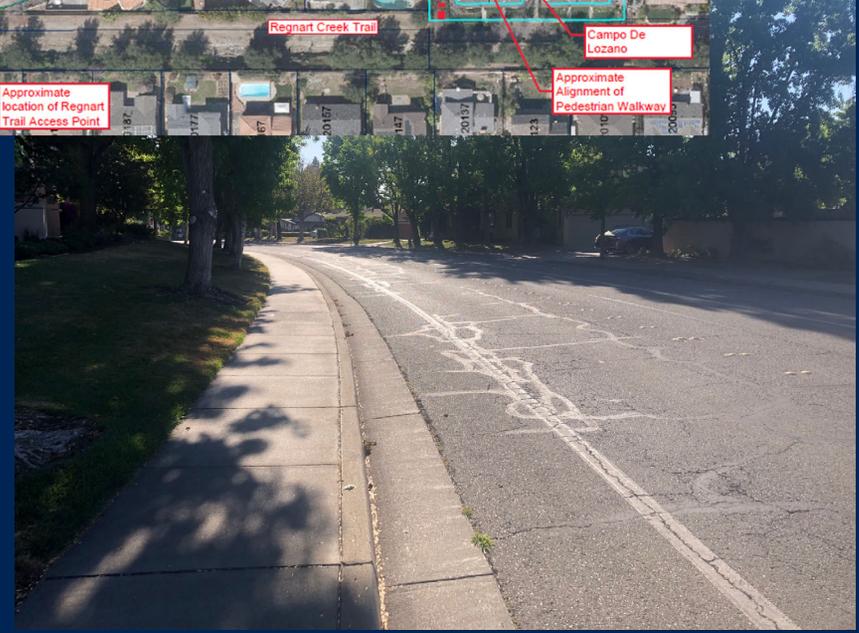


Driveway, fire hydrant and storm drain conflicts

# Location A



Looking to west - unlimited



Looking to east – 240'

# Location B



Looking to west – 200'



Looking to east – unlimited'



# Location C (70' east of pathway)



Looking to west – 200'



Looking to east – unlimited'

# Location C' (170' east of pathway)



Looking to west – 310'

Looking to east – unlimited'

## Bicycle Pedestrian Commission Action

- Bicycle Pedestrian Commission considered crosswalk concepts at July 15, 2022 meeting
- Commission motion:
  - Collect data for one year following trail opening to determine need for crosswalk at locations B or C
  - Install crosswalk at location A (Rodrigues gate near City Hall) prior to trail opening
- However, Staff does not recommend installing crosswalk prior to trail opening

## Pathway Signage

- At March 1, 2022 meeting, City Council directed staff to return to Council with suggested signage for Lozano pathway
- Proposed sign, to be placed at each end of Lozano Pathway:



## Staff Recommendation

- Collect data on trail usage, walkway usage, and vehicle speeds for one year following opening of trail. Anticipated trail opening November 2022.
- Evaluate need for midblock crossings or trail access closures at that time and return to Council with recommendation. Do not install crosswalk at this time.
- Prior to trail opening, install signage at walkway entrances advising “Pedestrian Walkway – Dismount Bicycle”, or similar, along with hours of trail operation



Questions?

**END SLIDE**

**Regnart Creek Trail/Campo de Lozano  
Midblock Pedestrian Crosswalk and Public  
Pedestrian Walkway Easement Signage**



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September 20, 2022