



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10350 Torre Avenue, Council Chamber
Tuesday, December 3, 2019
5:30 PM

Televised Special Meeting Mayor & Vice Mayor Oath of Office (5:30) and Regular Meeting (6:45)

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, December 3, 2019, commencing at 5:30 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting." The regular meeting items will be heard at 6:45 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California.

SPECIAL MEETING

ROLL CALL - 5:30 PM

ELECTION OF MAYOR AND VICE MAYOR

1. Subject: Councilmembers elect Mayor
Recommended Action: Make nominations and elect Mayor
2. Subject: Councilmembers elect Vice Mayor
Recommended Action: Make nominations and elect Vice Mayor

OATH OF OFFICE

3. Subject: Mayor takes Oath of Office
Recommended Action: Mayor takes Oath of Office
4. Subject: Vice Mayor takes Oath of Office
Recommended Action: Vice Mayor takes Oath of Office

COMMENTS BY NEW MAYOR

5. Subject: Comments by new Mayor
Recommended Action: Comments by new Mayor

COMMENTS BY COUNCILMEMBERS AND PUBLIC

6. Subject: Comments by Councilmembers
Recommended Action: Comments by Councilmembers
7. Subject: Members of the audience are invited to speak (no Speaker Cards necessary)
Recommended Action: Members of the audience are invited to speak

RECEPTION

8. Subject: The public is invited to attend a reception in the lobby
Recommended Action: The public is invited to attend a reception in the lobby

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

POSTPONEMENTS

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda.

REPORTS BY COUNCIL AND STAFF (10 minutes)

1. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

2. Subject: Approve the November 5 City Council minutes

Recommended Action: Approve the November 5 City Council minutes

[A - Draft Minutes](#)

3. Subject: Approve the November 19 City Council minutes

Recommended Action: Approve the November 19 City Council minutes

[A - Draft Minutes](#)

4. Subject: Declare properties as having potential fire hazards or other potential nuisances from weeds for the Cupertino Weed Abatement Program; set hearing date to declare a public nuisance and to consider objections for proposed removal.

Recommended Action: Adopt Resolution No. 19-141 declaring properties as having potential fire hazards or other potential nuisances from weeds; and set hearing on January 21, 2020 to declare a public nuisance and to consider objections for proposed removal.

[Staff Report](#)

[A - Draft Resolution and Exhibit A](#)

[B - 2020 Cupertino Commencement Report \(Exhibit A\)](#)

5. Subject: Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.

Recommended Action: Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.

[Staff Report](#)

[A - Resignation Letter](#)

[B - Adopted Resolution No. 16-137 Governing City Advisory Bodies](#)

6. Subject: Reject all bids received for the Blackberry Farm Slide and Recreation Pool Remodel, (Project No. 2020-10) and authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.

Recommended Action: 1. Receive report on bids for the Blackberry Farm Slide and Recreation Pool Remodel; and

2. Authorize the Director of Public Works to reject all bids for the Blackberry Farm Slide and Recreation Pool Remodel; and

3. Authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.

[Staff Report](#)

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

7. Subject: Municipal Code Amendments to Chapter 19.80 to clarify development standards in the Planned Development (P) Zoning Districts (Application No. MCA-2019-005; Applicant: City of Cupertino; Location: In P zoning districts located City-wide); Adoption of the Third Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt from CEQA.

Recommended Action: That the City Council conduct the first reading of Ordinance No. 19-2191: "An Ordinance of the City Council of the City of Cupertino adopting the Third Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 19.80 (Planned Development (P) Zones) of the Cupertino Municipal Code to Clarify Development Standards in P Zones."

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Redlines indicating amendments to Chapter 19.80](#)

[C - Planning Commission Resolution #6889](#)

[D - Third Addendum to GP Final EIR](#)

8. Subject: Municipal Code Amendments to Chapter 13.08 (Park Land Dedication and Fee) and Chapter 18.24 (Dedications and Reservations) to Clarify Park Land Dedication and In Lieu Fee Requirements; Adoption of the Fourth Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt From CEQA.

Recommended Action: That the City Council conduct the first reading of Ordinance No. 19-2192: "An Ordinance of the City Council of the City of Cupertino Adopting the Fourth Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 13.08 and Chapter 18.24 of the Municipal Code to Clarify Standards for Park Land Dedications and Fees In lieu Thereof."

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Redline Municipal Code Amendments](#)

[C - 4th Addendum - Parkland Ordinance](#)

[D - General Plan Park Distribution Policies](#)

ORDINANCES AND ACTION ITEMS

9. Subject: Consider out-of-cycle Community Funding Grant for West Valley Community Services.

Recommended Action: Consider an out-of-cycle Community Funding Grant request of \$5,000 for West Valley Community Services Gift of Hope Program and either:

- Approve a Community Funding Grant of \$5,000 for West Valley Community Services Gift of Hope Program, or
- Recommend that West Valley Community Services apply for a Community Funding Grant during the City's regular grant process.

[Staff Report](#)

[A - Community Funding Policy](#)

[B - Community Funding Grant Application for Gift of Hope](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/index.aspx?page=125> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend the next City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, 48 hours in advance of the Council meeting to arrange for assistance. Upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format. Also upon request, in advance, an assistive listening device can be made available for use during the meeting.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, during normal business hours and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: *Please be advised that pursuant to Cupertino Municipal Code 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written*

communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.

Members of the public are entitled to address the City Council concerning any item that is described in the notice or agenda for this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in front of the Council, and deliver it to the Clerk prior to discussion of the item. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item not on the agenda, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6485, **Version:** 1

Subject: Councilmembers elect Mayor

Make nominations and elect Mayor



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6486, **Version:** 1

Subject: Councilmembers elect Vice Mayor

Make nominations and elect Vice Mayor



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6487, **Version:** 1

Subject: Mayor takes Oath of Office

Mayor takes Oath of Office



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6488, **Version:** 1

Subject: Vice Mayor takes Oath of Office

Vice Mayor takes Oath of Office



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6489, **Version:** 1

Subject: Comments by new Mayor

Comments by new Mayor



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6490, **Version:** 1

Subject: Comments by Councilmembers

Comments by Councilmembers



CITY OF CUPERTINO

Legislation Text

File #: 19-6491, **Version:** 1

Subject: Members of the audience are invited to speak (no Speaker Cards necessary)

Members of the audience are invited to speak



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-6492, **Version:** 1

Subject: The public is invited to attend a reception in the lobby

The public is invited to attend a reception in the lobby



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-5173, **Version:** 1

Subject: Report on Committee assignments

Report on Committee assignments



CITY OF CUPERTINO

Legislation Text

File #: 19-5184, **Version:** 1

Subject: Approve the November 5 City Council minutes

Approve the November 5 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, November 5, 2019

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:45 p.m. Mayor Steven Scharf called the Regular City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Presentation from Toyokawa Sister City delegation regarding recent student exchange
Recommended Action: Receive presentation from Toyokawa Sister City delegation regarding recent student exchange

Cupertino-Toyokawa Sister City President Alysa Sakkas gave a presentation about Toyokawa and the organization. The delegation members spoke about their experiences on the trip.

Council received the presentation from Toyokawa Sister City delegation regarding recent student exchange.

2. Subject: Fine Arts Commission presentation of the 2019 Distinguished and Emerging Artist Winners.
Recommended Action: Receive Fine Arts Commission presentation of the 2019 Distinguished and Emerging Artist Winners.

Fine Arts Commission Chair Rajeswari Mahalingam introduced the winners and Mayor Scharf presented the awards.

Council received the Fine Arts Commission presentation of the 2019 Distinguished and Emerging Artist Winners.

3. Subject: Presentation on pedestrian safety by Divergent Debuggers First Lego League robotics team.

Recommended Action: Receive presentation on pedestrian safety by Divergent Debuggers First Lego League robotics team.

The Divergent Debuggers gave a presentation.

Council received the presentation on pedestrian safety by Divergent Debuggers First Lego League robotics team.

POSTPONEMENTS – None

ORAL COMMUNICATIONS

Sandy James (Cupertino resident) on behalf of the Cupertino Veterans Memorial talked about the upcoming Veterans Day celebration on November 11 at Memorial Park.

Dennis Whittaker (Cupertino resident) on behalf of American Legion Post 642 talked about the upcoming Wreaths across America event on December 14 at Gate of Heaven Cemetery.

Brooke Ezzat (Cupertino resident) talked about good governance and transparency.

Keith Kraft (Cupertino resident) talked about traffic concerns around the “tri-school” area. (Provided written comments).

Jim Moore (Cupertino resident) talked about hillside development and calculating slope percentages.

Connie Cunningham (Cupertino resident) talked about Apple funding and affordable housing.

Caryl Gorska (Cupertino resident) talked about general governance, housing, and overcrowding.

Lisa Warren talked about an upcoming meeting regarding the Flint Center; concern over bad driving in Cupertino and safety; request to agendaize recently passed housing bills.

REPORTS BY COUNCIL AND STAFF (10 minutes)

4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Paul moved and Scharf seconded to approve items on the Consent Calendar as presented except for item numbers 6 and 7 which were pulled for discussion. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

5. Subject: Approve the October 15 City Council minutes
Recommended Action: Approve the October 15 City Council minutes

Written communications included an amended page to the minutes.

6. Subject: Mitigation Fee Act - Annual & Five-Year Report - Fiscal Year 2018-2019
Recommended Action: 1) Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 55000 et seq.); and 2) Adopt Resolution No. 19-132 entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2019 and Making Required Findings."

Lisa Warren spoke on this item – request to go to Planning Commission first.

Sinks moved and Scharf seconded to 1) Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 55000 et seq.); and 2) Adopt Resolution No. 19-132 entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2019 and Making Required Findings." The motion carried unanimously.

7. Subject: Adopt Resolution No. 19-133 to accept the September 30, 2019 Carmen Road Pedestrian/Bicycle Bridge Feasibility Study Report. No authorization for design, construction or budget action requested at this time.

Recommended Action: Adopt Resolution No. 19-133 to accept the September 30, 2019 Carmen Road Pedestrian/Bicycle Bridge Feasibility Study Report.

Written communications included emails to Council and a presentation.

Director of Public Works Roger Lee reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Stephanie and Jake Miller (Cupertino resident) – in favor
Cade Feldman (Cupertino resident) – in favor
Tanith Feldman (Cupertino resident) – in favor
Amritha Sessaadin and kids (Cupertino resident) – in favor
Julie Orr (Cupertino resident) – in favor
John Jensen (Cupertino resident) - in favor
Vaasav Molas (Cupertino resident) - in favor
Demitri Verstarc (Cupertino resident) - in favor
Yulin (Cupertino resident) - in favor
Wil Fluewelling on behalf of Stevens Creek PTO (Cupertino resident) - in favor
Pamela Hawkes on behalf of Sunny View Manor (Cupertino resident) – in favor
Rich Williams (Cupertino resident) - in favor
Neesha Tambe (Cupertino resident) - in favor
Jian He (Cupertino resident) – in favor
Carol Stanek (Cupertino resident) - in favor
Shani Kleinhaus on behalf of Audubon Society – no transparent structures on bridge for bird safety
Byron Rovegno (Cupertino resident) – in favor
Richard Lowenthal (Cupertino resident) - in favor
Tom Scannell (Cupertino resident) - in favor
Geoff Paulsen (Cupertino resident) – in favor
Keith Kraft (Cupertino resident) – in favor

Mayor Scharf closed public comment.

Sinks moved and Scharf seconded to adopt Resolution No. 19-133 to accept the September 30, 2019 Carmen Road Pedestrian/Bicycle Bridge Feasibility Study Report. The motion carried unanimously.

Council recessed from 8:45 p.m. to 8:55 p.m.

SECOND READING OF ORDINANCES

8. Subject: An Ordinance amending Title 16, Buildings and Construction, of the Cupertino Municipal Code adopting the 2019 California Building Standards Code as mandated by the State of California with certain exceptions, deletions, modifications, additions, and amendments.

Recommended Action: Staff recommends that the City Council conduct the second reading to enact Ordinance No. 19-2189: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapters 16.02, 16.04, 16.06, 16.16, 16.20, 16.24, 16.40, 16.54, and 16.58 and Adding Chapters 16.62, 16.64, and 16.68 of Title 16 of the Cupertino Municipal Code adopting the 2019 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Fire, Historical Building Code, Existing Building Code, Referenced Standards Code, and Green Building Standards Code with certain exceptions, deletions, modifications, additions and amendments," (the "Ordinance"), attached as Attachment A.

City Clerk Grace Schmidt read the title of Ordinance No. 19-2189: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapters 16.02, 16.04, 16.06, 16.16, 16.20, 16.24, 16.40, 16.54, and 16.58 and Adding Chapters 16.62, 16.64, and 16.68 of Title 16 of the Cupertino Municipal Code adopting the 2019 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Fire, Historical Building Code, Existing Building Code, Referenced Standards Code, and Green Building Standards Code with certain exceptions, deletions, modifications, additions and amendments."

Paul moved and Scharf seconded to read Ordinance No. 19-2189 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None. Recuse: None.

Paul moved and Scharf seconded to enact Ordinance No. 19-2189. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None. Recuse: None.

PUBLIC HEARINGS

9. Subject: Consideration of Municipal Code Amendments to the Cupertino Municipal Code, Title 5, adopting new policies regulating the sale of tobacco, such as requiring a local permit to sell tobacco products, prohibiting the sale of flavored tobacco, prohibiting new businesses from selling tobacco near schools and reducing tobacco retailer density, prohibiting tobacco sales at pharmacies and in vending machines, and limiting storefront signage.

Recommended Action: 1. Conduct the first reading of Ordinance No. 19-2190: "An ordinance of the City Council of the City of Cupertino adding chapter 5.50 to title 5

(Business Licenses and Regulations) to regulate the sale of tobacco products and repealing chapter 10.27 of the Municipal Code (Cigarette and/or Tobacco Vending Machines)”; 2. Authorize the City Manager to negotiate and enter into a Memorandum of Understanding (MOU) with the County of Santa Clara to administer, implement, and enforce Cupertino’s ordinance; and 3. Find that the proposed actions are exempt from CEQA.

Written communications for this item included emails to Council and a presentation.

Consultant from Santa Clara County Department of Public Health Leslie Zellers and Assistant to the City Manager Katy Nomura reviewed the presentation.

Staff answered questions from Council.

Mayor Scharf opened the public hearing and the following individuals spoke:

William Yang (Cupertino resident) – in favor

Marissa Jensen (Cupertino resident) – in favor

Carol Baker (Cupertino resident) on behalf of Tobacco Free Coalition of SCC - in favor

Rosalyn Moyan on behalf of Santa Clara County Coalition - in favor

Randy Uang on behalf of Breathe California - in favor

Tanya Paygappilly on behalf of breathe California – in favor

Dionisio Palencia (San Jose resident) on behalf of American Heart Association – in favor

Jan Parcel (Cupertino resident) – opposed

Smitha Gundavajhala (Cupertino resident) on behalf of San Mateo County Tobacco Education Coalition – in favor

Bobo Kwok (Sunnyvale resident) on behalf of CADA– in favor

Afroze Khan (Cupertino resident) on behalf of API-CHAT and CADA – in favor

Geoff Paulsen (Cupertino resident) – in favor

Barry Chang (Cupertino resident) – in favor

Mayor Scharf closed the public hearing.

Staff answered questions from Council.

City Clerk Grace Schmidt read the title of Ordinance No. 19-2190: “An Ordinance of the City Council of the City of Cupertino adding chapter 5.50 to title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products and repealing chapter 10.27 of the Municipal Code (Cigarette and/or Tobacco Vending Machines)”.

Paul moved and Sinks seconded to read Ordinance No. 19-2190 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None. Recuse: None.

Paul moved and Sinks seconded to authorize the City Manager to negotiate and enter into a Memorandum of Understanding (MOU) with the County of Santa Clara to administer, implement, and enforce Cupertino's ordinance. The motion carried unanimously.

Paul moved and Sinks seconded to find that the proposed actions are exempt from CEQA. The motion carried unanimously.

Sinks moved and Scharf seconded to direct staff to bring back changes to the ordinance but not as part of the second reading after appropriate outreach to ban all vaping products and bring back information regarding smoke free housing. After further discussion, Sinks withdrew his motion and Council gave consensus to bring back both items to a future meeting.

ORDINANCES AND ACTION ITEMS

- 10. Subject:** Consider whether to authorize the formal submission and processing of a General Plan Amendment application to allow 29 units where four (4) units are currently allowed on an 86-acre hillside property, on the west side of the City adjacent to Linda Vista Park, with an average slope of ~48% which would require General Plan Amendments to change the existing General Plan Land Use Designation. (Application No.(s): GPAAuth-2019-01; Applicant: Lixin Chen; Location: APN(s): 356-27-026, 356-05-007, 356-05-008.
Recommended Action: Determine if the proposed project described in General Plan Amendment Authorization application (GPAAuth-2019-01) is authorized to proceed to apply for the requested General Plan Amendments. If authorized, adopt Resolution No. 19-134 authorizing a perspective development proposal described in the Canyon View Project General Plan Amendment Authorization application, No: GPAAuth-2019-01, to proceed with a General Plan Amendment application.

Written communications for this item included emails to Council and a presentation.

Senior Planner Erick Serrano reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Stephen Jacobs (Cupertino resident) – opposed

Dr. Wagee Ishak (Cupertino resident) – neither in favor or against

Lareen Jacobs (Cupertino resident) - opposed
Geoff Paulsen (Cupertino resident) – opposed
Ethan Thorman (Cupertino resident) – opposed
Steve Garrity (Sunnyvale resident) on behalf of Friends of Stevens Creek Trail
Neil McClintick (Cupertino resident) – in favor
Rose Friedland (Cupertino resident) – opposed
Peter Friedland (Cupertino resident) - opposed
Jim Moore (Cupertino resident) – opposed (provided written comments)
Govind (Cupertino resident) – opposed (provided written comments)
Connie Cunningham (Cupertino resident) – opposed
Caryl Gorska (Cupertino resident) – opposed
Linda Ruthruff on behalf of California Native Plant Society – opposed
Yixin Pan (Cupertino resident) – in favor
Bob McKibbin (Cupertino resident) – opposed
Jean Bedord (Cupertino resident) – in favor
Susan Chen (Cupertino resident) and architect of project – in favor
Shani Kleinhaus o behalf of Santa Clara County Audubon Society – opposed
Gary Newman (Cupertino resident) – opposed
LisaWarren - opposed

Mayor Scharf closed public comment.

The applicant gave a presentation.

Staff and the applicant answered questions from Council.

Paul moved and Scharf seconded to not authorize the project to proceed to apply for the requested General Plan Amendments and advise the applicant to follow the GPA Authorization process either to resubmit in 30 days or resubmit in May with respect to feedback and commentary from the public and the Council. The motion carried unanimously.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers highlighted the activities of their various community events.

Sinks/Scharf concurred to agendize a Council discussion on the FASTER initiative to raise sales tax 1%.

ADJOURNMENT

At 1:44 a.m. on Wednesday, November 6, Mayor Scharf adjourned the meeting.

Grace Schmidt, City Clerk



CUPERTINO

CITY OF CUPERTINO

Legislation Text

File #: 19-5185, **Version:** 1

Subject: Approve the November 19 City Council minutes

Approve the November 19 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, November 19, 2019

SPECIAL CITY COUNCIL MEETING

At 5:31 p.m. Mayor Steven Scharf called the Special City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

STUDY SESSION

1. Subject: Study session regarding policy options to reduce the use of natural gas and increase electrification of Cupertino's building stock via local amendments to the 2019 California Energy & Green Building Standards Codes (Reach Codes).
Recommended Action: Provide direction on policy options to reduce the use of natural gas and increase electrification of Cupertino's building stock via local amendments to the 2019 California Energy and Green Building Standards Codes.

Written communications for study session included emails to Council and a presentation.

Sustainability Manager Andre Duuvoort introduced consultant John Supp, Silicon Valley Clean Energy Authority Account Services Manager, and reviewed the presentation.

Staff and consultant answered questions from Council.

Mayor Scharf opened public comment and the following individuals spoke:

Jennifer Griffin- discuss and study

Anika Huang (Santa Clara resident) on behalf of Cupertino Youth Climate Action Team- in favor

Sanat Singhal on behalf of Cupertino Youth Climate Action Team- in favor (provided written comments).

Sofia Wang (Cupertino resident)- in favor
Helen Deng- in favor
Linda Sell (Sunnyvale resident) on behalf of Bay Area for Clean Environment- in favor
Rose Grymes (Cupertino resident)- in favor
Vignesh Swaminathan (Cupertino resident) on behalf of the Sustainability Commission – in favor
Dashiell Leeds on behalf of Sierra Club Loma Prieta Chapter- in favor
Gary Latshaw (Cupertino resident) on behalf of Bay Area for Clean Environment- in favor
Hoi Yung Poon (San Jose resident) on behalf of Silicon Valley Youth Climate Action- in favor
Ida Rose Sylvester (Mountain View resident) on behalf of Fossil Free Buildings Campaign- in favor
James Tulaya (Sunnyvale resident) on behalf of Carbon Free Silicon Valley- in favor
Danielle Burnett-Foster (Cupertino resident)- in favor
Patrick Ahrens (Cupertino resident)- in favor
Neil (Cupertino resident)- in favor

Mayor Scharf closed public comment.

Council conducted the study session regarding policy options to reduce the use of natural gas and increase electrification of Cupertino’s building stock via local amendments to the 2019 California Energy and Green Building Standards Codes.

Council comments included:

- Overall support for going all-electric
- Climate change crisis/urgency
- Need community outreach and education
- Conduct induction demonstration workshop at Quinlan Community Center. To be recorded for availability on website.
- Look into solutions along lines of parking
- Look into cost savings

ADJOURNMENT

At 6:54 p.m., Mayor Scharf adjourned the Special meeting.

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:54 p.m. Mayor Steven Scharf called the Regular City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

Council voted to reorder the agenda to hear Item No. 7 before Item No. 6 (unanimous).

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Certificates of Appreciation to the Cupertino Citizen Corps for their assistance with the recent Public Safety Power Shutdown (PSPS)
Recommended Action: Present Certificates of Appreciation to the Cupertino Citizen Corps for their assistance with the recent Public Safety Power Shutdown (PSPS)

Mayor Scharf presented Certificates of Appreciation to the Cupertino Citizen Corps for their assistance with the recent Public Safety Power Shutdown (PSPS).

2. Subject: Certificates of Appreciation to volunteers at the Silicon Valley Korean School (SVKS)
Recommended Action: Present Certificates of Appreciation to volunteers at the Silicon Valley Korean School (SVKS)

Silicon Valley Korean School Young Vice Principal Sook Kim introduced a student representative who gave a brief presentation.

Mayor Scharf presented Certificates of Appreciation to volunteers to the Silicon Valley Korean School (SVKS).

3. Subject: Proclamation for Lung Cancer Awareness Month
Recommended Action: Present proclamation for Lung Cancer Awareness Month

Yoyo Wang, co-founder of the American Lung Cancer Screening Initiative gave a brief presentation regarding lung cancer awareness.

Mayor Scharf presented a proclamation to Yoyo Wang for Lung Cancer Awareness Month.

4. Subject: Presentation by Cupertino-Copertino, Italy Sister City Committee adult delegation regarding recent trip

Recommended Action: Receive presentation by Cupertino-Copertino, Italy Sister City Committee adult delegation regarding recent trip

Helene Davis, President of the Cupertino-Copertino, Italy Sister City Committee introduced representatives from the adult delegation who gave a brief presentation regarding the recent trip.

The delegation presented the Mayor with a ceremonial gift.

Council received the presentation.

5. Subject: Presentation by Judy Miner, Chancellor of Foothill-De Anza Community College on the planning process for the facility that will replace De Anza's Flint Center

Recommended Action: Receive Presentation by Judy Miner, Chancellor of Foothill-De Anza Community College on the planning process for the facility that will replace De Anza's Flint Center

Judy Miner, Chancellor of Foothill-De Anza Community College and Board of Trustees President Pearl Cheng gave a presentation on the planning process for the facility that will replace De Anza's Flint Center.

The presenters answered questions from Council.

Council received the presentation.

REPORTS BY COUNCIL AND STAFF (10 minutes)

7. Subject: Report on Committee assignments

Recommended Action: Report on Committee assignments

City Manager Deb Feng gave a statement regarding the Vallco demolition.

POSTPONEMENTS

6. Subject: Continue Item No. 15 Adoption of the 2019 California Energy and Green Building Standards Codes with local amendments to a future meeting date and item will be renoticed. These topics will be discussed in the study session.

Recommended Action: Continue Item No. 15 Adoption of the 2019 California Energy and Green Building Standards Codes with local amendments to a future meeting date.

Continued Item No. 15 Adoption of the 2019 California Energy and Green Building Standards Codes with local amendments to a future meeting date.

ORAL COMMUNICATIONS

Sujatha Venkatraman, on behalf of West Valley Community Services, talked about fighting hunger and homelessness, partnership with the City (submitted written comments).

Jennifer Griffin talked about San Jose's urban village shopping center and those students going to Cupertino High School, and the nearby Safeway remaining open.

Shirley Hung (San Jose resident) talked about food safety concerns from purchasing expired foods from Marina Foods and related health issues for seniors.

Shiv Shah (Santa Clara resident) talked about bike safety on N. Tantau to Cupertino High School and suggestions for the bike lanes.

Jean Bedord provided written comments regarding Planning Commissioner Ray Wang on behalf of Ian Greensides.

Pamela Hershey talked about Vallco and the demolition of the Sears Auto Center, reassurance about black dust and toxicity.

Lisa Warren talked about improving R1 requirements for balconies and trees, addressing tree size and distance requirements, and balcony privacy concerns.

Dana Techmanski talked about Vallco and Sand Hill, materials being removed, exposure to dust and asbestos around adjacent homes.

R Wang (representing self) talked about ways to communicate with citizens, complaints about balconies and trees, and maintaining privacy; and free speech and defamation.

Qin Pan (representing herself) talked about the demolition at Vallco and the City taking measures to protect the neighbors from debris and materials.

Council recessed from 8:45 p.m. to 8:55 p.m.

CONSENT CALENDAR

Paul moved and Scharf seconded to approve items on the Consent Calendar as presented except for item numbers 8, 9, and 10 which were pulled for discussion. Ayes: Scharf, Chao, Paul, and Willey. Noes: None. Abstain: None. Absent: Sinks.

8. Subject: Annual adoption of Other Post-Employment Benefits (“OPEB”) Trust Investment Policy.

Recommended Action: Adopt Resolution No. 19-135 accepting the City Investment Policy for the OPEB Trust.

Finance Manager Zachary Korach answered questions from Council.

Paul moved and Chao seconded to Adopt Resolution No. 19-135 accepting the City Investment Policy for the OPEB Trust. The motion carried with Sinks absent.

9. Subject: Annual adoption of Pension Trust Investment Policy.

Recommended Action: Adopt Resolution No. 19-136 accepting the City Investment Policy for the Pension Trust.

Finance Manager Zachary Korach answered questions from Council.

Paul moved and Chao seconded to Adopt Resolution No. 19-136 accepting the City Investment Policy for the Pension Trust. The motion carried with Sinks absent.

10. Subject: Treasurer’s Investment Report for period ending September 30, 2019

Recommended Action: Accept staff report and provide recommendations.

Finance Manager Zachary Korach answered questions from Council.

Paul moved and Chao seconded to Accept Treasurer’s Investment Report for period ending September 30, 2019. The motion carried with Sinks absent.

11. Subject: Department of Housing and Community Development (HCD) Senate Bill (SB) 2 Planning Grants Program Application

Recommended Action: Adopt Resolution No. 19-137 authorizing application for, and receipt of, SB 2 Planning Grants Program Funds

12. Subject: Application for Alcoholic Beverage License for Welcome Market Inc (dba 99 Ranch Market), 10425 S. De Anza Boulevard

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Welcome Market Inc (dba 99 Ranch Market), 10425 S. De Anza Boulevard.

13. Subject: Application for Alcoholic Beverage License for Welcome Market, Inc (dba 99 Ranch Market), 10983 N. Wolfe Rd.

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Welcome Market Inc (dba 99 Ranch Market), 10983 N. Wolfe Road.

SECOND READING OF ORDINANCES

14. Subject: Second reading of Municipal Code Amendments to the Cupertino Municipal Code, Title 5, adopting new policies regulating the sale of tobacco, such as requiring a local permit to sell tobacco products, prohibiting the sale of flavored tobacco, prohibiting new businesses from selling tobacco near schools and reducing tobacco retailer density, prohibiting tobacco sales at pharmacies and in vending machines, and limiting storefront signage.

Recommended Action: Conduct second reading and enact Ordinance No. 19-2190; "An ordinance of the City Council of the City of Cupertino adding chapter 5.50 to title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products and repealing chapter 10.27 of the Municipal Code (Cigarette and/or Tobacco Vending Machines)"

Deputy City Clerk Kirsten Squarcia read the title of Ordinance No. 19-2190; "An ordinance of the City Council of the City of Cupertino adding chapter 5.50 to title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products and repealing chapter 10.27 of the Municipal Code (Cigarette and/or Tobacco Vending Machines)"

Paul moved and Scharf seconded to read Ordinance No. 19-2190 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Scharf, Chao, Paul, and Willey. Noes: None. Abstain: None. Absent: Sinks. Recuse: None.

Paul moved and Scharf seconded to enact Ordinance No. 19-2190. Ayes: Scharf, Chao, Paul, and Willey. Noes: None. Abstain: None. Absent: Sinks. Recuse: None.

REPORTS BY COUNCIL AND STAFF (10 minutes) - CONTINUED

7. Subject: Report on Committee assignments

Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

PUBLIC HEARINGS

15. Subject: Adoption of the 2019 California Energy and Green Building Standards Codes with local amendments has been continued to a future meeting date and item will be renoticed. These topics will be discussed in the study session.

Recommended Action: Adoption of the 2019 California Energy and Green Building Standards Codes with local amendments has been continued to a future meeting date.

Under Postponements, this item was continued to a future meeting and will be renoticed.

ORDINANCES AND ACTION ITEMS

16. Subject: Update on Library Expansion Project, selection of Conceptual Design, approval of project delivery method, and direction on project funding.

Recommended Action: 1. Conceptual Design: Select either the One-Story or the Two-Story Conceptual Design. Additional actions listed below as determined by Conceptual Design selection. 2. One-Story Conceptual Design a. Approve use of a traditional Design-Bid-Build project delivery method. b. Authorize the City Manager or her designee to negotiate and enter into all agreements as necessary with a qualified architectural firm and construction/project management firm for an amount not-to-exceed \$808,200. 3. Two-Story Conceptual Design a. Authorize use of a Design-Build project delivery method, using best value selection, assuming Design-Build is determined to be feasible. b. Approve Resolution 19-138 executing a loan agreement of up to \$3,000,000 from the General Fund to Capital Fund for the Library Room Expansion. c. Approve Budget Amendment 1920-070 increasing appropriation by \$3,000,000 for the Library Expansion Project. d. Authorize the City Manager or her designee to negotiate and enter into all agreements as necessary with a qualified architectural firm and construction/project management firm for an amount not-to-exceed \$1,870,500. 4. Staffing: Authorize transfer of a 3-year Limited Term Project Manager in the Department of Public Works from the new City Hall project to the Library Expansion Project.

Written communications for this item included a presentation.

Director of Public Works Roger Lee, Assistant City Manager Dianne Thompson, Capital Improvement Program Manager Michael Zimmerman, and County Librarian and Executive Director of the Santa Clara County Library District Nancy Howe reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Amanda Wo (Cupertino resident) on behalf of the Library Commission- in favor of two-story option

Kitty Moore (representing self)- in favor of two-story option

Qin Pan (Cupertino resident, representing self) - in favor of two-story option

Liana Crabtree (representing self)- in favor, parking constraints, overflow and signage

Gilbert Wong (representing self)- in favor

Kirin Varshneya on behalf of Cupertino Library Foundation- in favor

Art Cohen (Morgan Hill resident) on behalf of the Cupertino Library Foundation- in favor of two-story option

Henry Sang on behalf of Cupertino Library Foundation- in favor of two-story option (provided written comments)

Lisa Warren- in favor of two-story option, bird safety

Rahul Vasanth (representing self)- in favor of two-story option

Mayor Scharf closed public comment.

Staff and presenters answered questions from Council.

Paul moved and Scharf seconded to:

1. Select the two-story conceptual design provided in the staff report accompanying agenda item 16 with the following additional elements of:

a. Further partitioning off the second-story spaces of the divided program room into meeting-oriented sub-spaces.

b. Opportunities for fundraising within the physical design.

c. Potential re-design of the restrooms.

d. Potential opening up of the first floor on the northern and/or southern sides of the story room to the courtyard and redwood grove, respectively.

e. Potential integration of design elements of the library expansion with the natural elements contained in the courtyard and redwood grove.

f. A potential balcony on the second story.

2. Further, for the Two-Story Conceptual Design:

a. Authorize use of a Design-Build project delivery method, using best value selection, assuming Design-Build is determined to be feasible.

b. Approve Resolution 19-138 executing a loan agreement of up to \$3,000,000 from the General Fund to Capital Fund for the Library Room Expansion.

c. Approve Budget Amendment 1920-070 increasing appropriation by \$3,000,000 for the Library Expansion Project.

d. Authorize the City Manager or her designee to negotiate and enter into all agreements as necessary with a qualified architectural firm and construction/project management firm for an amount not-to-exceed \$1,870,500.; and

3. For Staffing: Authorize transfer of a 3-year Limited Term Project Manager in the Department of Public Works from the new City Hall project to the Library Expansion Project.

The motion carried with Sinks absent.

17. Subject: Approve the First Quarter Financial Report for Fiscal Year 2019-20

Recommended Action: 1. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2019-20 2. Adopt Resolution No. 19-139 approving First Quarter budget adjustments 3. Adopt Resolution No. 19-140 amending the Compensation Program for the Unrepresented (Management and Confidential) Employees

Written communications for this item included a presentation.

Director of Administrative Services Kristina Alfaro introduced the item and Finance Manager Zachary Korach reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Jennifer Griffin- rezoning Lehigh quarry, protecting sensitive environmental areas.

Mayor Scharf closed public comment.

Staff answered questions from Council.

Paul moved and Willey seconded to:

1. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2019-20 2. Adopt Resolution No. 19-139 approving First Quarter budget adjustments 3. Adopt Resolution No. 19-140 amending the Compensation Program for the Unrepresented (Management and Confidential) Employees.

The motion carried with Sinks absent.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers highlighted the activities of their various community events.

Willey/Scharf concurred to agendize a presentation by Cupertino High School seniors on Vallco

Willey/Paul concurred to agendize a study session on Apple's bay area affordable housing projects.

ADJOURNMENT

At 1:10 a.m. on Wednesday, November 20, Mayor Scharf adjourned the meeting.

Kirsten Squarcia, Deputy City Clerk



CITY OF CUPERTINO

Legislation Text

File #: 19-5241, **Version:** 1

Subject: Declare properties as having potential fire hazards or other potential nuisances from weeds for the Cupertino Weed Abatement Program; set hearing date to declare a public nuisance and to consider objections for proposed removal.

Adopt Resolution No. 19-141 declaring properties as having potential fire hazards or other potential nuisances from weeds; and set hearing on January 21, 2020 to declare a public nuisance and to consider objections for proposed removal.



OFFICE OF THE CITY CLERK

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 3, 2019

Subject

Declare properties as having potential fire hazards or other potential nuisances from weeds for the Cupertino Weed Abatement Program; set hearing date to declare a public nuisance and to consider objections for proposed removal.

Recommended Action

Adopt the Draft Resolution declaring properties as having potential fire hazards or other potential nuisances from weeds; and set hearing on January 21, 2020 to declare a public nuisance and to consider objections for proposed removal.

Discussion

The Cupertino Weed Abatement Program is in place to prevent fire hazards and other nuisances posed by vegetative growth (weeds) and the accumulation of combustible materials. This program is managed by the Santa Clara County Department of Agriculture. Cupertino Municipal Code Chapter 9.08 requires property owners to remove or destroy weeds on their property for fire and public health protection. The weed abatement process is in place to notify the property owners of this responsibility, authorize the County to remove the weeds if the property owner doesn't, and allow the County to recover the costs of abatement.

Process for Weed Abatement Program Outlined

The process consists of eight steps that begin in November and go through August of each year, as shown on the following list. At this time the process is at Step No. 2. On November 11, 2019, the County filed with the City the report of properties that have been identified as being noncompliant with the abatement program requirements (Attachment B, Exhibit A in Resolution).

The attached Resolution declares these properties as being a potential fire hazard due to weeds and/or combustible materials, or a potential nuisance due to weeds that are noxious, dangerous, or pose health risks. If Council wishes to adopt it, property owners on the report will receive a notice from the County indicating that their property must be abated, and that the City Council will conduct a public hearing on January 21, 2020 in order to consider objections to the proposed abatement.

During the public hearing on January 21, the Council will be asked to approve the Weed Abatement Program report and to declare a public nuisance. If approved, the County will be authorized to perform an inspection of the properties on the report to determine if the property has met the Weed Abatement Program requirements. Property owners will have until April 30, 2020 to abate their property.

1. County prepares a report of all properties that have been non-compliant in removing weeds in the last three years and provides that report to the City (Nov) (Attachment B).
2. City Council adopts a resolution declaring properties as having potential fire hazards or other potential nuisances from weeds and sets hearing to declare public nuisance and to consider objections for proposed removal (Nov-Dec) (Attachment A).
3. County sends notice to the property owners on the report notifying them of the hearing date and explaining that they must remove weeds by the abatement deadline of April 30 or it will be done for them, and with cost of the abatement plus administrative costs assessed to their property (Dec).
4. City Council holds the hearing to consider objections by property owners and adopts a resolution declaring weeds a public nuisance and ordering abatement (Jan-Feb).
5. County sends a courtesy letter to property owners listed on the report, notifying them again of the abatement deadline, and noting that they will work with the property owner to be sure the weeds are removed (Jan-Feb).
6. After April 30, the properties are inspected by the County to verify that weeds were removed and proceeds with abatement if the inspection fails. County makes a report of all costs associated with the abatement and provides that report to the City (June-July).
7. City notifies the property owners listed on the assessment report, notifying them of the hearing date. (July-Aug).
8. City Council holds a hearing, notes any disputes, and adopts a resolution placing a lien assessment on the properties to allow the County to recover the cost of weed and/or brush abatement (July-Aug).

Prepared by: Kirsten Squarcia, Deputy City Clerk

Reviewed by: Grace Schmidt, City Clerk

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A - Draft Resolution and Exhibit A

B - 2020 Cupertino Commencement Report (Exhibit A)

RESOLUTION NO. 19-

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
DECLARING WEEDS ON CERTAIN DESCRIBED PROPERTY TO BE A
POTENTIAL FIRE HAZARD OR OTHER POTENTIAL NUISANCES AND
SETTING A HEARING TO DECLARE PUBLIC NUISANCE AND FOR
OBJECTIONS TO PROPOSED REMOVAL**

WHEREAS, weeds as described in Chapter 9.08 of the Cupertino Municipal Code are growing in the City of Cupertino upon certain streets, sidewalks, highways, roads and private property; and

WHEREAS, said weeds are undesirable, noxious, and dangerous and/or due to their rapid growth are or may become a fire menace; as such, said weeds constitute a potential public nuisance under state law and Chapter 9.08 of the Cupertino Municipal Code; and

WHEREAS, property owners and other persons occupying or having charge or control of any building, lot, or premises within the City are required to remove weeds in accordance with the provisions of Chapter 9.08 of the Cupertino Municipal Code;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino as follows:

1. Weeds growing upon any private property or in any street or alley within the City in violation of Cupertino Municipal Code, Chapter 9.08 constitute a public nuisance;
2. The weeds found on the streets, sidewalks, highways, roads and private property, which properties are identified by common names or by reference to the tract, block, lot, code area, and parcel number on the report prepared by the County Agricultural Commissioner and attached hereto as Exhibit A, are declared as having potential fire hazards or other potential nuisances due to weeds that are noxious, dangerous, or pose health risks;
3. That the 21st day of January, 2020, at the hour of 6:45 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber in the Community Hall, City of Cupertino, is hereby set as the time and place to

declare weeds on these properties to be a public nuisance and where all property owners having any objections to the proposed removal of such weeds may be heard;

4. That the Agricultural Commissioner is hereby designated and ordered to give notice of the adoption of this resolution, in the manner and form provided in Chapter 9.08 of the Cupertino Municipal Code.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 3rd day of December 2019 by the following vote:

Vote Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____	 _____
Steven Scharf, Mayor City of Cupertino	Date
ATTEST: _____	 _____
Grace Schmidt, City Clerk	Date

**2020 WEED ABATEMENT PROGRAM
 COMMENCEMENT REPORT
 CITY OF CUPERTINO**

Situs	APN				CITY/STATE		
10175	MC LAREN	PL 316-21-049	CHAO LIANG FANG	10175 MC LAREN PL	CUPERTINO	CA	95014-2335
10531	PORTAL	AV 316-30-102	TANG, GEORGE AND TSAO, JUNG	10531 PORTAL AV N	CUPERTINO	CA	95014-2447
19641	DRAKE	DR 316-32-028	YOUNG, KATHY AND EDBERG,	19641 DRAKE DR	CUPERTINO	CA	95014-2433
19661	DRAKE	DR 316-32-030	KAN, CANDY L AND LAWRENCE K	19661 DRAKE DR	CUPERTINO	CA	95014-2433
20111	APPLE TREE	LN 316-33-091	MA RUI	20111 APPLE TREE LN	CUPERTINO	CA	95014-2001
0		326-07-035	PACIFIC GAS AND ELECTRIC CO	111 ALMADEN BLVD	SAN JOSE	CA	95115-0005
10047	CRESCENT	RD 326-16-027	GRAND SUCCESS LLC	10047 CRESCENT RD	CUPERTINO	CA	95014-1050
10036	CRESCENT	RD 326-17-065	HENGYE LLC	10559 FELTON WAY	CUPERTINO	CA	95014-4305
10395	STELLING	RD 326-28-094	CHEN, ZHIFENG TRUSTEE & ET AL	10395 STELLING RD N	CUPERTINO	CA	95014-1613
20985	GARDEN GATE	DR 326-30-087	WU, RICHARD W ET AL	12181 COUNTRY SQUIRE LN	SARATOGA	CA	95070-3467
10467	GLENCOE	DR 326-30-106	DAMASK ROBERT T	PO BOX 2421	CUPERTINO	CA	95015
10490	CASTINE	AV 326-41-032	WONG, LAWRENCE W AND HEIDI Y	5094 GLENTREE DR	SAN JOSE	CA	95129-2125
10692	PEBBLE	PL 326-43-042	LIU, SU-LING AND CHEN, SHUO-	10692 PEBBLE PL	CUPERTINO	CA	95014-1333
10712	PEBBLE	PL 326-43-044	WINGET, CHARLES M AND	10712 PEBBLE PL	CUPERTINO	CA	95014-1333
0	STEVENS	BL 342-13-012	DEANE AND DEANE INC	4040 MOORPARK #116	SAN JOSE	CA	95117-1851
10744	SANTA LUCIA	RD 342-16-073	BANGALORE, MANJUNATH S AND	10744 SANTA LUCIA RD	CUPERTINO	CA	95014-3940
22577	SAN JUAN	RD 342-17-084	DHUEY, MICHAEL J	22577 SAN JUAN RD	CUPERTINO	CA	95014-3932
22661	SAN JUAN	RD 342-17-110	TURNER, PAUL J TRUSTEE & ET AL	10550 MIRA VISTA RD	CUPERTINO	CA	95014
0	EL CERRITO	RD 342-21-004	ITEM, WERNER AND GLORIA E	22670 SAN JUAN RD	CUPERTINO	CA	95014-3933
10625	CORDOVA	RD 342-22-103	BREINBERG, STEVEN A AND DANNA	10625 CORDOVA RD	CUPERTINO	CA	95014-3911
23026	VOSS	AV 342-50-016	TSAI, VICKY TSAY-HSAI TRUSTEE &	0 PO BOX 977	CUPERTINO	CA	95015-0977
0	(LAND ONLY)	342-50-019	CHAMBERLAIN, JACK T TRUSTEE	655 SKYWAY 230	SAN CARLOS	CA	94070
0	STEVENS	RD 351-10-043	PARKSIDE TRAIL LLC	0 P.O BOX 320667	LOS GATOS	CA	95032

**2020 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN		CITY/STATE				
0	MC CLELLAN	RD 356-05-005	LOWENTHAL, RICHARD AND ELLEN	21602 VILLA MARIA CT	CUPERTINO	CA	95014
10750	RAE	LN 356-07-076	CHANG, CHRIS ET AL	580 ALBERTA AV	SUNNYVALE	CA	94087-0000
21885	HYANNISPORT	DR 356-13-050	BERGMAN, JACQUELINE	1660 GATON DR APT MO3	SAN JOSE	CA	95125-4514
21906	HYANNISPORT	DR 356-14-057	XU, HAO AND WANG, XUE	21906 HYANNISPORT DR	CUPERTINO	CA	95014-4016
21662	COLUMBUS	AV 356-18-049	CHANG, ERIC AND CECILIA KAN	21662 COLUMBUS AV	CUPERTINO	CA	95014-4711
21576	LA PLAYA	CT 356-23-015	SAHA, ANGSHUMAN AND	0 PO BOX 2918	CUPERTINO	CA	95015-2918
21987	LINDY	LN 356-25-031	KANG, PING QI AND LIANG, YU JUAN	2408 CLEMENT ST	SAN FRANCISCO	CA	94121
	NO SITUS	356-25-033	KANG, PINGQI ET AL	2793 RANDERS CT	PALO ALTO	CA	94303-0000
11395	CANYON VIEW	CL 356-27-022	HOPKINS, JOHN N AND CAROLYN S	11395 CANYON VIEW CL	CUPERTINO	CA	95014-0000
11450	CANYON VIEW	CL 356-27-023	CHANG, CHIAO-FU AND SUE-FAY	20832 HANFORD DR	CUPERTINO	CA	95014-1824
22032	LINDY	LN 356-27-025	DE, KALPAJIT AND MAJUMDER,	22032 LINDY LN	CUPERTINO	CA	95014-4811
22310	PALM	AV 357-04-023	VAN BLOMMESTEIN, ROBERT AND	1144 BRACE AV	SAN JOSE	CA	95125-3200
840	ROSE	DR 359-04-019	LIAN, HAO AND WANG, JING	840 ROSE BLOSSOM DR	CUPERTINO	CA	95014-4214
10040	BIANCHI	WY 359-07-021	LIN, JASON C AND FANG, YING HO	10228 STELLING RD N	CUPERTINO	CA	95014-1643
20940	STEVENS	BL 359-07-022	LIN, JASON C	20940 STEVENS CREEK BL	CUPERTINO	CA	95014-2170
20616	MC CLELLAN	RD 359-18-048	HARDEMAN, MELODY F ET AL	20616 MCCLELLAN RD	CUPERTINO	CA	95014-2955
20840	CHERRYLAND	DR 359-20-042	HODA, MD AND BEGUM, RASHIDA	20840 CHERRYLAND DR	CUPERTINO	CA	95014-0000
0	BUBB	RD 362-01-025	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	CRANBERRY	DR 362-02-048	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	CRANBERRY	DR 362-04-058	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
		362-09-026	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0		362-16-037	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0		362-19-033	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747

**2020 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN		CITY/STATE				
1103	STELLING	RD 362-22-006	KABRA, GOVIND AND ZAWAR,	1103 STELLING RD S	CUPERTINO	CA	95014-5020
1161	STELLING	RD 362-22-018	WOODIE, KERMIT D TRUSTEE	1161 STELLING RD S	CUPERTINO	CA	95014-5020
7585	RAINBOW	DR 362-24-003	LI, WEI AND WANG, TAO	7585 RAINBOW DR	CUPERTINO	CA	95014-5235
20666	CLEO	AV 362-31-001	XU, BIN ET AL	20666 CLEO AV	CUPERTINO	CA	95014-5033
20652	CLEO	AV 362-31-002	BURROW, BRADLEY J AND JUANITA S	20652 CLEO AV	CUPERTINO	CA	95014-5033
	NO SITUS	362-31-030	ALMASI, AZITA TRUSTEE & ET AL	965 LAUREL GLEN DR	PALO ALTO	CA	94304-1323
11835	UPLAND	WY 366-03-056	VENKATESH, BHIMACHAR	11835 UPLAND WY	CUPERTINO	CA	95014-5106
11841	UPLAND	WY 366-03-062	VEMPATY, HYMA T AND	13304 GLEN BRAE DR	SARATOGA	CA	95070-4431
0	STAUFFER	LN 366-09-053	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
7690	PEACH	DR 366-11-114	DOLL, CYNTHIA A TRUSTEE	4801 CAMERON RD	ELK	CA	95432
21660	RAINBOW	CT 366-38-006	VAN BUREN, DONALD P AND	21660 RAINBOW CT	CUPERTINO	CA	95014-4829
21650	RAINBOW	CT 366-38-007	BARNIV, ZURI M AND MICHAL	10668 CARVER DR	CUPERTINO	CA	95014-3607
22045	REGNART	RD 366-46-004	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
22045	REGNART	RD 366-46-005	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
	REGNART	RD 366-46-006	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
	REGNART	RD 366-46-007	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
10295	VICKSBURG	DR 369-07-015	XU, GUANGJUN AND YANG, QI	10295 VICKSBURG DR	CUPERTINO	CA	95014-3358
10301	VICKSBURG	DR 369-07-016	MUNTZ, DANIEL A AND KUNO,	10301 VICKSBURG DR	CUPERTINO	CA	95014-3358
10140	RICHWOOD	DR 369-08-033	ORTIZ ALFREDO TRUSTEE	PO BOX 40	CUPERTINO	CA	95015
10441	OAKVILLE	AV 369-12-035	VRCELJ, MICHAEL J	10441 OAKVILLE AV	CUPERTINO	CA	95014-4520
10530	PINEVILLE	AV 369-13-029	BALACHANDAR, NARMADA AND	10530 PINEVILLE AV	CUPERTINO	CA	95014-4529
10300	VICKSBURG	DR 369-14-008	TANABE, THOMAS M TRUSTEE & ET	10300 VICKSBURG DR	CUPERTINO	CA	95014-3320
866	BETTE	AV 369-24-047	TUNG, KA-WAH ET AL	866 BETTE AV	CUPERTINO	CA	95014

**2020 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN		CITY/STATE				
879	BETTE	AV 369-27-050	CHANG, JUI PO	1198 EAGLE RIDGE WAY	MILPITAS	CA	95035
20011	PACIFICA	DR 369-28-042	SWAMINATHAN, RAM AND	20011 PACIFICA DR	CUPERTINO	CA	95014-3110
10450	CORTE DE	375-05-005	TRACY HSU	22330 SANTA PAULA AVE	CUPERTINO	CA	95014
19160	STEVENS	BL 375-07-001	STEVENS CREEK L P	1400 PARKMOOR AV STE 190	SAN JOSE	CA	95126-0000
10067 S.	TANTAU	AV 375-07-007	WU HUNGJEN HENRY	10067 S TANTAU AVE	CUPERTINO	CA	95014-3541
19131	LOREE	AV 375-07-029	KONG FAN PENG AND CHEN MING	19131 LOREE AVE	CUPERTINO	CA	95014-3539
19160	STEVENS	BL 375-07-061	STEVENS CREEK L P	1400 PARKMOOR AV STE 190	SAN JOSE	CA	95126-0000
18930	TILSON	AV 375-09-049	LIU, ZHENG AND CHEN, AIDONG	18930 TILSON AV	CUPERTINO	CA	95014-3655
10200	STERN	AV 375-12-002	MC GRATH, PATRICK W	0 PO BOX 2422	PALO ALTO	CA	94309-2422
10240	STERN	AV 375-12-042	YUN, JUNG SUK AND FUNG, SUE	10240 STERN AV	CUPERTINO	CA	95014-3689
18880	ARATA	WY 375-13-005	YI, QINGHONG AND ZHOU, JIE	18880 ARATA WY	CUPERTINO	CA	95014-3634
18844	ARATA	WY 375-13-008	DSOUZA, SANTHOSH A AND SABITHA	18844 ARATA WY	CUPERTINO	CA	95014-3634
18796	ARATA	WY 375-13-012	CHANG, JIUN JYE AND WU, YA PING	18796 ARATA WY	CUPERTINO	CA	95014-3633
10271	MENHART	LN 375-15-028	YAMAMOTO, KEI AND KANG, KELLY	20730 FARGO DR	CUPERTINO	CA	95014-1904
10337	MENHART	LN 375-15-039	HORIO, LELAND S ET AL	5878 MACADAM CT	SAN JOSE	CA	95123-4332
10391	MENHART	LN 375-15-048	HU, YUGEN AND YINGHE	48236 ARCADIAN ST	FREMONT	CA	94539
10408	MENHART	LN 375-16-004	BARDSLEY, BRENT G	10408 MENHART LN	CUPERTINO	CA	95014-3631
10272	MENHART	LN 375-17-017	SF19G LLC	26880 ALISO VIEJO PKWY	ALISO VIEJO	CA	92656
10425	CALVERT	DR 375-17-031	YEUNG, LORRAINE TRUSTEE	0 PO BOX 31	LOS GATOS	CA	95031
10435	CALVERT	DR 375-17-032	MCKEE, ELLEN D TRUSTEE	10435 CALVERT DR	CUPERTINO	CA	95014-3835
18770	TILSON	AV 375-17-039	HOVEYDA, NILOUFAR AND JALILI,	1055 MCKINEY AV W	SUNNYVALE	CA	94086
10490	WUNDERLICH	DR 375-17-055	LU, ANNE	10490 WUNDERLICH DR	CUPERTINO	CA	95014-3648
10240	CALVERT	DR 375-18-022	WANG, NADIA J AND XING, PEI	10240 CALVERT DR	CUPERTINO	CA	95014-3808

**2020 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN				CITY/STATE		
10361	JOHNSON	AV 375-18-039	MC GRATH, PATRICK W	0 PO BOX 2422	PALO ALTO	CA	94309-2422
10409	JOHNSON	AV 375-18-044	RECUPERO, MARILYN A TRUSTEE	1190 BASCOM AV S 108	SAN JOSE	CA	95128
18655	LOREE	AV 375-19-008	LIANG, WAN HAR CINDY TRUSTEE	18655 LOREE AV	CUPERTINO	CA	95014-3837
10424	STERLING	BL 375-24-003	ATTIA, MAGED A AND BEDAIR,	842 SAN PETRONIO AV	SUNNYVALE	CA	94085-3449
10308	STERLING	BL 375-24-017	HAO, STEVE MIN AND SUN, QING	6962 BOLLINGER RD	SAN JOSE	CA	95129-2847
18671	PRING	CT 375-25-039	HUANG, CHANG-KAI AND TSENG,	18671 PRING CT	CUPERTINO	CA	95014-3822
18661	CRABTREE	AV 375-25-047	SUBAINATI, JULIE AND MOHAMAD K	18661 CRABTREE AV	CUPERTINO	CA	95014-3864
18621	BARNHART	AV 375-26-035	KOO, SANDRA S ET AL	18621 BARNHART AV	CUPERTINO	CA	95014-3801
10456	JOHNSON	AV 375-26-045	CHOI, IHNAEE AND CHO, SUNGJU	10456 JOHNSON AV	CUPERTINO	CA	95014-3814
10424	JOHNSON	AV 375-26-049	WONG, DAMON AND IRENE LAI	10424 JOHNSON AV	CUPERTINO	CA	95014-3814
10610	WUNDERLICH	DR 375-27-019	NIE, XIAOQIONG	10610 WUNDERLICH DR	CUPERTINO	CA	95014-3652
18781	TUGGLE	AV 375-27-025	CAMPBELL MICHAEL D	PO BOX 5345	SAN JOSE	CA	95150-5345
10590	WUNDERLICH	DR 375-27-026	CHOONG, PHILIP T AND HSIA S	27769 EDGERTON RD	LOS ALTOS HILLS	CA	94022-3235
10540	WUNDERLICH	DR 375-27-037	ZHANG, YUAN AND CHEN, FENNA	10540 WUNDERLICH DR	CUPERTINO	CA	95014-3650
10740	GASCOIGNE	DR 375-29-016	FAULKNER, BARBARA JEANNE ET AL	10740 GASCOIGNE DR	CUPERTINO	CA	95014-3846
10840	JOHNSON	AV 375-30-024	ATCHISON, JOHN D TRUSTEE	0 PO BOX 698	CUPERTINO	CA	95015-0698
10784	JOHNSON	AV 375-31-003	WANG, YINAN	0 PO BOX 946	CUPERTINO	CA	95014
10730	JOHNSON	AV 375-31-008	LEE, MING-TZUNG AND YU-MING	10730 JOHNSON AV	CUPERTINO	CA	95014-3818
10711	GASCOIGNE	DR 375-31-018	TSAI, CHIH JUNG AND LAI, HUI WEN	10711 GASCOIGNE DR	CUPERTINO	CA	95014-3845
10801	GASCOIGNE	DR 375-31-027	AGARWAL, SANJAY TRUSTEE & ET	4231 NORWALK DR EE101	SAN JOSE	CA	95129
10831	JOHNSON	AV 375-31-065	HUO, XIPING AND SONG,	5023 CAPISTRANO AV	SAN JOSE	CA	95129-1025
10841	JOHNSON	AV 375-31-066	SONG, NING AND LI, YONGNA	10841 JOHNSON AV	CUPERTINO	CA	95014-3819
10630	CARVER	DR 375-32-020	MC GRATH, PATRICK W	0 PO BOX 2422	PALO ALTO	CA	94309-2422

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COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN			CITY/STATE				
10616	CARVER	DR	375-32-021	YETTAW, JACKIE A AND JERRI L	10616 CARVER DR	CUPERTINO	CA	95014-3607
18870	TUGGLE	AV	375-32-024	DELA CRUZ, SHERWIN PETER L	18870 TUGGLE AV	CUPERTINO	CA	95014-3626
18850	TUGGLE	AV	375-32-026	ZHU, XINGLEI AND YIN, WENYUAN	18850 TUGGLE AV	CUPERTINO	CA	95014-3626
18931	PENDERGAST	AV	375-33-033	KAWASAKI ELAINE T TRUSTEE	18931 PENDERGAST AVE	CUPERTINO	CA	95014-3622
10657	MORENGO	DR	375-34-013	ORTIZ, ROSA F ET AL	10657 MORENGO DR	CUPERTINO	CA	95014-3513
10673	MORENGO	DR	375-34-015	SHARMA, SUBHASH C AND MAMTA	10673 MORENGO DR	CUPERTINO	CA	95014-3513
18930	TUGGLE	AV	375-34-045	SHEN & TIAN LLC	16230 AZALEA WY	LOS GATOS	CA	95032-3622
10732	MORENGO	DR	375-35-059	ZHANG, JIANYONG AND XIAO, YAN	10732 MORENGO DR	CUPERTINO	CA	95014-3515
10627	CULBERTSON	DR	375-36-027	MC GRATH, PATRICK W	1184 VALELAKE CT	SUNNYVALE	CA	94089-2032
928	HYDE	AV	375-39-004	BARRACLOUGH WINFIELD J ROARK	928 HYDE AVE	CUPERTINO	CA	95014-4663
19210	TILSON	AV	375-40-060	SINGH, TAJINDER AND SANDHU,	1499 WOLFE RD S	SUNNYVALE	CA	94087-3633
678	MILLER	AV	375-42-012	JEN KO-TA AND CHRISTINA N	678 MILLER AVE	CUPERTINO	CA	95014-4640

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 CITY OF CUPERTINO**

Situs	APN		CITY/STATE			
10175	MC LAREN	PL 316-21-049	CHAO LIANG FANG	10175 MC LAREN PL	CUPERTINO	CA 95014-2335
10531	PORTAL	AV 316-30-102	TANG, GEORGE AND TSAO, JUNG	10531 PORTAL AV N	CUPERTINO	CA 95014-2447
19641	DRAKE	DR 316-32-028	YOUNG, KATHY AND EDBERG,	19641 DRAKE DR	CUPERTINO	CA 95014-2433
19661	DRAKE	DR 316-32-030	KAN, CANDY L AND LAWRENCE K	19661 DRAKE DR	CUPERTINO	CA 95014-2433
20111	APPLE TREE	LN 316-33-091	MA RUI	20111 APPLE TREE LN	CUPERTINO	CA 95014-2001
0		326-07-035	PACIFIC GAS AND ELECTRIC CO	111 ALMADEN BLVD	SAN JOSE	CA 95115-0005
10047	CRESCENT	RD 326-16-027	GRAND SUCCESS LLC	10047 CRESCENT RD	CUPERTINO	CA 95014-1050
10036	CRESCENT	RD 326-17-065	HENGYE LLC	10559 FELTON WAY	CUPERTINO	CA 95014-4305
10395	STELLING	RD 326-28-094	CHEN, ZHIFENG TRUSTEE & ET AL	10395 STELLING RD N	CUPERTINO	CA 95014-1613
20985	GARDEN GATE	DR 326-30-087	WU, RICHARD W ET AL	12181 COUNTRY SQUIRE LN	SARATOGA	CA 95070-3467
10467	GLENCOE	DR 326-30-106	DAMASK ROBERT T	PO BOX 2421	CUPERTINO	CA 95015
10490	CASTINE	AV 326-41-032	WONG, LAWRENCE W AND HEIDI Y	5094 GLENTREE DR	SAN JOSE	CA 95129-2125
10692	PEBBLE	PL 326-43-042	LIU, SU-LING AND CHEN, SHUO-	10692 PEBBLE PL	CUPERTINO	CA 95014-1333
10712	PEBBLE	PL 326-43-044	WINGET, CHARLES M AND	10712 PEBBLE PL	CUPERTINO	CA 95014-1333
0	STEVENS	BL 342-13-012	DEANE AND DEANE INC	4040 MOORPARK #116	SAN JOSE	CA 95117-1851
10744	SANTA LUCIA	RD 342-16-073	BANGALORE, MANJUNATH S AND	10744 SANTA LUCIA RD	CUPERTINO	CA 95014-3940
22577	SAN JUAN	RD 342-17-084	DHUEY, MICHAEL J	22577 SAN JUAN RD	CUPERTINO	CA 95014-3932
22661	SAN JUAN	RD 342-17-110	TURNER, PAUL J TRUSTEE & ET AL	10550 MIRA VISTA RD	CUPERTINO	CA 95014
0	EL CERRITO	RD 342-21-004	ITEM, WERNER AND GLORIA E	22670 SAN JUAN RD	CUPERTINO	CA 95014-3933
10625	CORDOVA	RD 342-22-103	BREINBERG, STEVEN A AND DANNA	10625 CORDOVA RD	CUPERTINO	CA 95014-3911
23026	VOSS	AV 342-50-016	TSAI, VICKY TSAY-HSAI TRUSTEE &	0 PO BOX 977	CUPERTINO	CA 95015-0977
0	(LAND ONLY)	342-50-019	CHAMBERLAIN, JACK T TRUSTEE	655 SKYWAY 230	SAN CARLOS	CA 94070
0	STEVENS	RD 351-10-043	PARKSIDE TRAIL LLC	0 P.O BOX 320667	LOS GATOS	CA 95032

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CITY OF CUPERTINO**

Situs	APN		CITY/STATE				
0	MC CLELLAN	RD 356-05-005	LOWENTHAL, RICHARD AND ELLEN	21602 VILLA MARIA CT	CUPERTINO	CA	95014
10750	RAE	LN 356-07-076	CHANG, CHRIS ET AL	580 ALBERTA AV	SUNNYVALE	CA	94087-0000
21885	HYANNISPORT	DR 356-13-050	BERGMAN, JACQUELINE	1660 GATON DR APT MO3	SAN JOSE	CA	95125-4514
21906	HYANNISPORT	DR 356-14-057	XU, HAO AND WANG, XUE	21906 HYANNISPORT DR	CUPERTINO	CA	95014-4016
21662	COLUMBUS	AV 356-18-049	CHANG, ERIC AND CECILIA KAN	21662 COLUMBUS AV	CUPERTINO	CA	95014-4711
21576	LA PLAYA	CT 356-23-015	SAHA, ANGSHUMAN AND	0 PO BOX 2918	CUPERTINO	CA	95015-2918
21987	LINDY	LN 356-25-031	KANG, PING QI AND LIANG, YU JUAN	2408 CLEMENT ST	SAN FRANCISCO	CA	94121
	NO SITUS	356-25-033	KANG, PINGQI ET AL	2793 RANDERS CT	PALO ALTO	CA	94303-0000
11395	CANYON VIEW	CL 356-27-022	HOPKINS, JOHN N AND CAROLYN S	11395 CANYON VIEW CL	CUPERTINO	CA	95014-0000
11450	CANYON VIEW	CL 356-27-023	CHANG, CHIAO-FU AND SUE-FAY	20832 HANFORD DR	CUPERTINO	CA	95014-1824
22032	LINDY	LN 356-27-025	DE, KALPAJIT AND MAJUMDER,	22032 LINDY LN	CUPERTINO	CA	95014-4811
22310	PALM	AV 357-04-023	VAN BLOMMESTEIN, ROBERT AND	1144 BRACE AV	SAN JOSE	CA	95125-3200
840	ROSE	DR 359-04-019	LIAN, HAO AND WANG, JING	840 ROSE BLOSSOM DR	CUPERTINO	CA	95014-4214
10040	BIANCHI	WY 359-07-021	LIN, JASON C AND FANG, YING HO	10228 STELLING RD N	CUPERTINO	CA	95014-1643
20940	STEVENS	BL 359-07-022	LIN, JASON C	20940 STEVENS CREEK BL	CUPERTINO	CA	95014-2170
20616	MC CLELLAN	RD 359-18-048	HARDEMAN, MELODY F ET AL	20616 MCCLELLAN RD	CUPERTINO	CA	95014-2955
20840	CHERRYLAND	DR 359-20-042	HODA, MD AND BEGUM, RASHIDA	20840 CHERRYLAND DR	CUPERTINO	CA	95014-0000
0	BUBB	RD 362-01-025	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	CRANBERRY	DR 362-02-048	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	CRANBERRY	DR 362-04-058	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
		362-09-026	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0		362-16-037	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0		362-19-033	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747

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1103	STELLING	RD 362-22-006	KABRA, GOVIND AND ZAWAR,	1103 STELLING RD S	CUPERTINO	CA	95014-5020
1161	STELLING	RD 362-22-018	WOODIE, KERMIT D TRUSTEE	1161 STELLING RD S	CUPERTINO	CA	95014-5020
7585	RAINBOW	DR 362-24-003	LI, WEI AND WANG, TAO	7585 RAINBOW DR	CUPERTINO	CA	95014-5235
20666	CLEO	AV 362-31-001	XU, BIN ET AL	20666 CLEO AV	CUPERTINO	CA	95014-5033
20652	CLEO	AV 362-31-002	BURROW, BRADLEY J AND JUANITA S	20652 CLEO AV	CUPERTINO	CA	95014-5033
	NO SITUS	362-31-030	ALMASI, AZITA TRUSTEE & ET AL	965 LAUREL GLEN DR	PALO ALTO	CA	94304-1323
11835	UPLAND	WY 366-03-056	VENKATESH, BHIMACHAR	11835 UPLAND WY	CUPERTINO	CA	95014-5106
11841	UPLAND	WY 366-03-062	VEMPATY, HYMA T AND	13304 GLEN BRAE DR	SARATOGA	CA	95070-4431
0	STAUFFER	LN 366-09-053	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
7690	PEACH	DR 366-11-114	DOLL, CYNTHIA A TRUSTEE	4801 CAMERON RD	ELK	CA	95432
21660	RAINBOW	CT 366-38-006	VAN BUREN, DONALD P AND	21660 RAINBOW CT	CUPERTINO	CA	95014-4829
21650	RAINBOW	CT 366-38-007	BARNIV, ZURI M AND MICHAL	10668 CARVER DR	CUPERTINO	CA	95014-3607
22045	REGNART	RD 366-46-004	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
22045	REGNART	RD 366-46-005	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
	REGNART	RD 366-46-006	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
	REGNART	RD 366-46-007	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979
10295	VICKSBURG	DR 369-07-015	XU, GUANGJUN AND YANG, QI	10295 VICKSBURG DR	CUPERTINO	CA	95014-3358
10301	VICKSBURG	DR 369-07-016	MUNTZ, DANIEL A AND KUNO,	10301 VICKSBURG DR	CUPERTINO	CA	95014-3358
10140	RICHWOOD	DR 369-08-033	ORTIZ ALFREDO TRUSTEE	PO BOX 40	CUPERTINO	CA	95015
10441	OAKVILLE	AV 369-12-035	VRCELJ, MICHAEL J	10441 OAKVILLE AV	CUPERTINO	CA	95014-4520
10530	PINEVILLE	AV 369-13-029	BALACHANDAR, NARMADA AND	10530 PINEVILLE AV	CUPERTINO	CA	95014-4529
10300	VICKSBURG	DR 369-14-008	TANABE, THOMAS M TRUSTEE & ET	10300 VICKSBURG DR	CUPERTINO	CA	95014-3320
866	BETTE	AV 369-24-047	TUNG, KA-WAH ET AL	866 BETTE AV	CUPERTINO	CA	95014

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Situs	APN	CITY/STATE
879 BETTE AV 369-27-050	CHANG, JUI PO	1198 EAGLE RIDGE WAY MILPITAS CA 95035
20011 PACIFICA DR 369-28-042	SWAMINATHAN, RAM AND	20011 PACIFICA DR CUPERTINO CA 95014-3110
10450 CORTE DE 375-05-005	TRACY HSU	22330 SANTA PAULA AVE CUPERTINO CA 95014
19160 STEVENS BL 375-07-001	STEVENS CREEK L P	1400 PARKMOOR AV STE 190 SAN JOSE CA 95126-0000
10067 S. TANTAU AV 375-07-007	WU HUNGJEN HENRY	10067 S TANTAU AVE CUPERTINO CA 95014-3541
19131 LOREE AV 375-07-029	KONG FAN PENG AND CHEN MING	19131 LOREE AVE CUPERTINO CA 95014-3539
19160 STEVENS BL 375-07-061	STEVENS CREEK L P	1400 PARKMOOR AV STE 190 SAN JOSE CA 95126-0000
18930 TILSON AV 375-09-049	LIU, ZHENG AND CHEN, AIDONG	18930 TILSON AV CUPERTINO CA 95014-3655
10200 STERN AV 375-12-002	MC GRATH, PATRICK W	0 PO BOX 2422 PALO ALTO CA 94309-2422
10240 STERN AV 375-12-042	YUN, JUNG SUK AND FUNG, SUE	10240 STERN AV CUPERTINO CA 95014-3689
18880 ARATA WY 375-13-005	YI, QINGHONG AND ZHOU, JIE	18880 ARATA WY CUPERTINO CA 95014-3634
18844 ARATA WY 375-13-008	DSOUZA, SANTHOSH A AND SABITHA	18844 ARATA WY CUPERTINO CA 95014-3634
18796 ARATA WY 375-13-012	CHANG, JIUN JYE AND WU, YA PING	18796 ARATA WY CUPERTINO CA 95014-3633
10271 MENHART LN 375-15-028	YAMAMOTO, KEI AND KANG, KELLY	20730 FARGO DR CUPERTINO CA 95014-1904
10337 MENHART LN 375-15-039	HORIO, LELAND S ET AL	5878 MACADAM CT SAN JOSE CA 95123-4332
10391 MENHART LN 375-15-048	HU, YUGEN AND YINGHE	48236 ARCADIAN ST FREMONT CA 94539
10408 MENHART LN 375-16-004	BARDSLEY, BRENT G	10408 MENHART LN CUPERTINO CA 95014-3631
10272 MENHART LN 375-17-017	SF19G LLC	26880 ALISO VIEJO PKWY ALISO VIEJO CA 92656
10425 CALVERT DR 375-17-031	YEUNG, LORRAINE TRUSTEE	0 PO BOX 31 LOS GATOS CA 95031
10435 CALVERT DR 375-17-032	MCKEE, ELLEN D TRUSTEE	10435 CALVERT DR CUPERTINO CA 95014-3835
18770 TILSON AV 375-17-039	HOVEYDA, NILOUFAR AND JALILI,	1055 MCKINEY AV W SUNNYVALE CA 94086
10490 WUNDERLICH DR 375-17-055	LU, ANNE	10490 WUNDERLICH DR CUPERTINO CA 95014-3648
10240 CALVERT DR 375-18-022	WANG, NADIA J AND XING, PEI	10240 CALVERT DR CUPERTINO CA 95014-3808

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Situs	APN			CITY/STATE				
10361	JOHNSON	AV	375-18-039	MC GRATH, PATRICK W	0 PO BOX 2422	PALO ALTO	CA	94309-2422
10409	JOHNSON	AV	375-18-044	RECUPERO, MARILYN A TRUSTEE	1190 BASCOM AV S 108	SAN JOSE	CA	95128
18655	LOREE	AV	375-19-008	LIANG, WAN HAR CINDY TRUSTEE	18655 LOREE AV	CUPERTINO	CA	95014-3837
10424	STERLING	BL	375-24-003	ATTIA, MAGED A AND BEDAIR,	842 SAN PETRONIO AV	SUNNYVALE	CA	94085-3449
10308	STERLING	BL	375-24-017	HAO, STEVE MIN AND SUN, QING	6962 BOLLINGER RD	SAN JOSE	CA	95129-2847
18671	PRING	CT	375-25-039	HUANG, CHANG-KAI AND TSENG,	18671 PRING CT	CUPERTINO	CA	95014-3822
18661	CRABTREE	AV	375-25-047	SUBAINATI, JULIE AND MOHAMAD K	18661 CRABTREE AV	CUPERTINO	CA	95014-3864
18621	BARNHART	AV	375-26-035	KOO, SANDRA S ET AL	18621 BARNHART AV	CUPERTINO	CA	95014-3801
10456	JOHNSON	AV	375-26-045	CHOI, IHNAEE AND CHO, SUNGJU	10456 JOHNSON AV	CUPERTINO	CA	95014-3814
10424	JOHNSON	AV	375-26-049	WONG, DAMON AND IRENE LAI	10424 JOHNSON AV	CUPERTINO	CA	95014-3814
10610	WUNDERLICH	DR	375-27-019	NIE, XIAOQIONG	10610 WUNDERLICH DR	CUPERTINO	CA	95014-3652
18781	TUGGLE	AV	375-27-025	CAMPBELL MICHAEL D	PO BOX 5345	SAN JOSE	CA	95150-5345
10590	WUNDERLICH	DR	375-27-026	CHOONG, PHILIP T AND HSIA S	27769 EDGERTON RD	LOS ALTOS HILLS	CA	94022-3235
10540	WUNDERLICH	DR	375-27-037	ZHANG, YUAN AND CHEN, FENNA	10540 WUNDERLICH DR	CUPERTINO	CA	95014-3650
10740	GASCOIGNE	DR	375-29-016	FAULKNER, BARBARA JEANNE ET AL	10740 GASCOIGNE DR	CUPERTINO	CA	95014-3846
10840	JOHNSON	AV	375-30-024	ATCHISON, JOHN D TRUSTEE	0 PO BOX 698	CUPERTINO	CA	95015-0698
10784	JOHNSON	AV	375-31-003	WANG, YINAN	0 PO BOX 946	CUPERTINO	CA	95014
10730	JOHNSON	AV	375-31-008	LEE, MING-TZUNG AND YU-MING	10730 JOHNSON AV	CUPERTINO	CA	95014-3818
10711	GASCOIGNE	DR	375-31-018	TSAI, CHIH JUNG AND LAI, HUI WEN	10711 GASCOIGNE DR	CUPERTINO	CA	95014-3845
10801	GASCOIGNE	DR	375-31-027	AGARWAL, SANJAY TRUSTEE & ET	4231 NORWALK DR EE101	SAN JOSE	CA	95129
10831	JOHNSON	AV	375-31-065	HUO, XIPING AND SONG,	5023 CAPISTRANO AV	SAN JOSE	CA	95129-1025
10841	JOHNSON	AV	375-31-066	SONG, NING AND LI, YONGNA	10841 JOHNSON AV	CUPERTINO	CA	95014-3819
10630	CARVER	DR	375-32-020	MC GRATH, PATRICK W	0 PO BOX 2422	PALO ALTO	CA	94309-2422

**2020 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

Situs	APN			CITY/STATE				
10616	CARVER	DR	375-32-021	YETTAW, JACKIE A AND JERRI L	10616 CARVER DR	CUPERTINO	CA	95014-3607
18870	TUGGLE	AV	375-32-024	DELA CRUZ, SHERWIN PETER L	18870 TUGGLE AV	CUPERTINO	CA	95014-3626
18850	TUGGLE	AV	375-32-026	ZHU, XINGLEI AND YIN, WENYUAN	18850 TUGGLE AV	CUPERTINO	CA	95014-3626
18931	PENDERGAST	AV	375-33-033	KAWASAKI ELAINE T TRUSTEE	18931 PENDERGAST AVE	CUPERTINO	CA	95014-3622
10657	MORENGO	DR	375-34-013	ORTIZ, ROSA F ET AL	10657 MORENGO DR	CUPERTINO	CA	95014-3513
10673	MORENGO	DR	375-34-015	SHARMA, SUBHASH C AND MAMTA	10673 MORENGO DR	CUPERTINO	CA	95014-3513
18930	TUGGLE	AV	375-34-045	SHEN & TIAN LLC	16230 AZALEA WY	LOS GATOS	CA	95032-3622
10732	MORENGO	DR	375-35-059	ZHANG, JIANYONG AND XIAO, YAN	10732 MORENGO DR	CUPERTINO	CA	95014-3515
10627	CULBERTSON	DR	375-36-027	MC GRATH, PATRICK W	1184 VALELAKE CT	SUNNYVALE	CA	94089-2032
928	HYDE	AV	375-39-004	BARRACLOUGH WINFIELD J ROARK	928 HYDE AVE	CUPERTINO	CA	95014-4663
19210	TILSON	AV	375-40-060	SINGH, TAJINDER AND SANDHU,	1499 WOLFE RD S	SUNNYVALE	CA	94087-3633
678	MILLER	AV	375-42-012	JEN KO-TA AND CHRISTINA N	678 MILLER AVE	CUPERTINO	CA	95014-4640



CITY OF CUPERTINO

Legislation Text

File #: 19-6659, **Version:** 1

Subject: Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.

Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.



OFFICE OF THE CITY CLERK

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 3, 2019

Subject

Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.

Recommended Action

Accept termination of Bicycle Pedestrian Commission member Pete Heller and direct staff to fill the unscheduled, partial vacancy in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020.

Discussion

Pete Heller was serving his second term on the Bicycle Pedestrian Commission which expires on January 30, 2021. He resigned his position due to leaving Cupertino effective November 30, thereby leaving an unscheduled vacancy for the remaining portion of his term. The letter of resignation is attached (Attachment A) as well as adopted Resolution No. 16-137 governing City advisory bodies (Attachment B). The unscheduled vacancy will be posted as required.

Staff recommends that the partial vacancy be filled in January 2020 concurrent with the annual recruitment for all commission and committee members' terms expiring in January 2020. The City Council will interview candidates on January 28 and 29, 2020. Besides the unscheduled Bicycle Pedestrian Commission vacancy, Commissions with upcoming vacancies in January 2020 include: Audit Committee (2 seats), Housing Commission (2 seats), Parks and Recreation Commission (2 seats), Public Safety Commission (3 seats), Sustainability Commission (3 seats), and Technology Information and Communications Commission (2 seats).

Sustainability Impact

None

Fiscal Impact

None

Prepared by: Grace Schmidt City Clerk

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A - Resignation Letter

B – Adopted Resolution No. 16-137 Establishing Rules Governing Recruitment, Attendance, Appointments, and Vacancies on City Advisory Bodies

From: [Peter Heller](#)
To: [Grace Schmidt, MMC](#)
Cc: [Kirsten Squarcia](#); [David Stillman](#); [Gerhard Eschelbeck](#); [Jennifer Shearin](#); [Erik Lindskog](#); [Muni Madhhipatla](#); [City Council](#)
Subject: Resignation from Cupertino bicycle pedestrian Commission
Date: Tuesday, November 26, 2019 11:49:20 PM

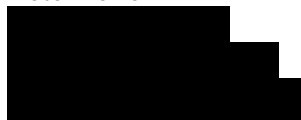
Grace, et. al.,

Due to my recent move to Redwood Estates in Los Gatos, I must tender my resignation from the Cupertino bicycle pedestrian Commission. Let's make this effective as of November 30th so the slate will be clean for December.

I want to thank the current and previous City Councils for the opportunity to serve. I am proud of my service on the commission and the results that have been accomplished with City Council's backing. In fact I would say the city has reached an inflection point for bicycle and pedestrian infrastructure. It's incredible to see the implementation of class 4/ protected bike Lanes on McClellan and the unanimous adoption of the Regnart Creek Trail by the current City Council.

Thanks also to David Stillman and Timm Borden for the excellent support they've provided over the years. I wish you all the best of luck and look forward to seeing continued expansion how's the bicycle and pedestrian networks.

Best regards,
Pete Heller



RESOLUTION NO. 16-137

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
RESCINDING RESOLUTION NO. 10-048 AND AMENDING THE
RESOLUTION ESTABLISHING RULES GOVERNING RECRUITMENT,
ATTENDANCE, APPOINTMENTS, AND VACANCIES ON CITY ADVISORY
BODIES TO ADD DESIGNATED ALTERNATES TO THE INTERVIEWS AND
APPOINTMENTS PROCESS**

WHEREAS, the City of Cupertino wishes to establish uniform terms and conditions of office for advisory commissions; and

WHEREAS, there are within the City of Cupertino many citizens with talent, expertise and experience who wish to serve the community; and

WHEREAS, the City Council believes it is important to provide these citizens the opportunity to contribute to their community;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino rescinds Resolution No. 10-048 and establishes the following rules governing recruitment, appointment and reappointment to City of Cupertino Advisory bodies.

A. RECRUITMENT

1. Two months before regular terms expire, or immediately following receipt of a resignation, the City Clerk distributes the vacancy notice as follows:
 - The Cupertino Scene
 - The Cupertino Courier
 - The World Journal
 - The Cupertino City Channel
 - City Hall bulletin board
 - The City Clerk's Office
 - The Cupertino Library
 - The Cupertino Chamber of Commerce
 - Cupertino City Web site
 - Other organizations as appropriate with respect to the openings
 - All persons with applications on file for that particular commission

2. Two months before regular terms expire, the City Clerk's Office also mails the vacancy notice to the following individuals:
 - Students and graduates of Cupertino Emergency Response Training
 - Students or graduates of Leadership Cupertino
 - Neighborhood Block Leaders
 - Individuals who have signed up for notification at the Cupertino Town Hall meetings.
3. All vacancy notices and posting shall be done in accordance with the provisions of the Maddy Act, California Government Code 54970. Specifically, vacancy notices shall be posted for a minimum of 10 days.
4. Applications will be retained for a maximum of one year after Council review. After that time, applicants shall submit a new application if they wish to remain on the list for consideration.
5. Those persons with applications on file within one year of Council review are advised of the vacancy by the City Clerk and may activate that application. –Upon receipt of the vacancy notice, the applicant must contact the City Clerk's Office and ask that the application be reactivated.
6. An applicant may file for a maximum of two commissions at any one application period.
7. A member of an advisory body, having completed two consecutive terms, must wait two years after the term would have normally ended before being eligible to apply for the same commission or committee.
8. Application forms will be available in the City Clerk's Office and will be mailed upon request with information about the opening(s). Application forms will also be available on the City's Web site.
9. No application shall be accepted after the deadline.
10. When the final deadline has passed, the City Clerk's Office will mail applicants the date, time and location of the interviews along with sample questions to consider.

11. The City Clerk's Office will copy the applicants' written material for Council members. The written material will also be available for public review in the City Clerk's Office.
12. An applicant who is unable to attend the interview may submit a 5-minute video presentation in advance of the interview meeting. The tape will be reviewed at the meeting. The video will be made by City staff at the applicant's request upon the approval of the City Clerk. The City will fund these costs.

B. INTERVIEWS AND APPOINTMENTS

1. When Council meets to conduct interviews, it is a public meeting subject to the Brown Act and therefore open to the public. The candidates will be asked by the City Clerk (either in person or by written instructions left in the waiting area) to remain seated in the waiting area until they are called in for the interview. Candidates will also be asked to return to the waiting area until the announcement of the vote, or to go home and contact the City Clerk's Office the next day regarding the results. However, all applicants and members of the public have the option of remaining in the room for any or all of the meeting.
2. The order in which interviews are scheduled to take place will be determined by a drawing of names. The City Clerk will do this in advance.
3. Interviews are informal and usually last 5-8 minutes. Council members are looking for:
 - Familiarity with the subject
 - Decision-making ability
 - Commitment to the position for which they have applied
4. Appointments will be made following a vote in public. Ballots will be distributed, and Council members will vote and sign the ballots. The City Clerk will announce the votes.

5. The City Council may appoint alternates to serve on boards, commissions and committees in the event of a vacancy. Such alternates may attend and participate in meetings of the board, commission, or committee but shall not vote in such meetings until such time as a vacancy has occurred and the alternate has filled such vacancy. If the City Council appoints more than one alternate for a particular board, commission or committee, the City Council shall designate the alternates as first alternate, second alternate and so on such that immediately upon a vacancy occurring in a board, commission, or committee, the first alternate shall fill such vacancy without the need for further City Council action.

C. UNSCHEDULED VACANCIES AND ATTENDANCE

1. If a vacancy occurs for an unexpired term and interviews for appointment to that advisory body have been conducted within the previous ninety days, the unexpired term may be filled from those applications following the required posting of the vacancy.
2. The notice of unscheduled vacancy shall be posted no earlier than 20 days before nor later than 20 days after the vacancy occurs, and at least 10 working days before appointment. The notice of unscheduled vacancy must be posted in the Office of the City Clerk, at the City Hall bulletin board, at the Cupertino Library, and in other places designated by the City Clerk.
3. A member shall be considered removed from an advisory body under the following conditions.
 - A member misses more than three consecutive meetings
 - A member misses more than 25% of the advisory body's meetings in a calendar year
4. It is the responsibility of the advisory body's staff liaison to notify the City Clerk of a member's attendance record to allow sufficient time to send a warning notice if the member has missed three consecutive meetings or 25% of the meetings, and to send a termination notice if the member has missed more three consecutive meetings or more than 25% of the meetings in a calendar year.

Resolution No. 16-137

Page 5

5. A member who has been removed from an advisory body for inadequate attendance may request a waiver of this provision by submitting a letter to the City Council setting forth the reason for the absences and confirming future availability.

D. GENERAL PROVISIONS

1. Term limit restrictions listed in this resolution do not apply to temporary appointments for unexpired terms.
2. All provisions of this resolution shall apply unless otherwise decided by the City Council on a case-by-case basis.
3. In the event that any provision of this resolution conflicts with the provisions of any other ordinance or resolution governing a particular advisory body, the provisions governing that advisory body shall prevail.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 20th day of December, 2016, by the following vote:

Vote Members of the City Council


AYES: Vaidhyanathan, Chang, Scharf, Sinks

NOES: None

ABSENT: Paul

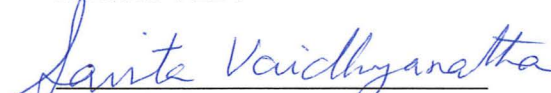
ABSTAIN: None

ATTEST:



Grace Schmidt, City Clerk

APPROVED:



Savita Vaidhyanathan, Mayor,
City of Cupertino



CITY OF CUPERTINO

Legislation Text

File #: 19-4925, **Version:** 1

Subject: Reject all bids received for the Blackberry Farm Slide and Recreation Pool Remodel, (Project No. 2020-10) and authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.

1. Receive report on bids for the Blackberry Farm Slide and Recreation Pool Remodel; and
2. Authorize the Director of Public Works to reject all bids for the Blackberry Farm Slide and Recreation Pool Remodel; and
3. Authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.



PUBLIC WORKS DEPARTMENT

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

TELEPHONE: (408) 777-3354 www.cupertino.org

CITY COUNCIL STAFF REPORT

Meeting: December 3, 2019

Subject

Reject all bids received for the Blackberry Farm Slide and Recreation Pool Remodel, (Project No. 2020-10) and authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.

Recommended Action

1. Receive report on bids for the Blackberry Farm Slide and Recreation Pool Remodel; and
2. Authorize the Director of Public Works to reject all bids for the Blackberry Farm Slide and Recreation Pool Remodel; and
3. Authorize the Director of Public Works to competitively solicit contractors to only complete work necessary to resolve spot repair of rust stains in the pools.

Discussion

The Blackberry Farm pools were originally purchased in 1991 and were reconditioned in 1995 and re-plastered in 2010. The industry standard to have municipal pools re-plastered and otherwise improved is every 8-10 years. The indicators of work needing to be completed include rough plaster, loose or missing tiles, corroded metal and rust staining. Each of these indicators are currently present. The scope of work that was written to address these issues for the Blackberry Farm Slide and Recreation Pool Remodel Project (Project) includes the following work for both the recreation pool and the slide pool:

- Plaster resurfacing (approx. 3,000 square feet in the recreation pool and 2,000 square feet in the slide pool)
- Spot repair of underwater rust stains
- Deck coping replacement
- Handrail replacement
- Tile replacement with new markers
- Underwater light replacement
- Repair of damaged portions of deck

Staff issued the advertisement for bids for the Project on October 23, 2019. The bid opportunity was noticed in the Cupertino Courier, trade journals and directly to self-listed interested contractors. Staff also reached out directly to pool contractors.

On November 14, 2019, the City received one (1) bid for the Project. Below is a summary of bids results:

Bidder	Bid Amount
Western Water Features, Inc.	\$ 469,000
Available Budget	\$ 192,000

The lone bid submitted by Western Water Features, Inc. is significantly over the available budget and the Engineer's estimate for the work. Due to the lack of response and high bid amount, rejecting all bids and re-advertising the project with its current scope is not expected to yield different results in this difficult bidding environment and is not recommended.

To ensure that the pools can open at the start of the swim season in April, it is necessary to resolve the immediate deficiencies identified by Cal OSHA in this year's inspection of the facility. The deficiency that needs to be addressed involves rust stains at the bottom of the pool. It is recommended that spot repairs be done to address these rust stains prior to April. The remaining work will be assessed and potentially included in the Fiscal Year 2020-21 Capital Improvement Program recommendations after the spot repairs are complete.

Fiscal Impact

On June 5, 2018, the City Council allocated \$200,000 for this project. Currently, \$192,000 is available for improvement work. Spot repair of rust areas is anticipated to cost less than \$75,000 and will be authorized by the Director of Public Works after a competitive process without any additional action required by the City Council. All unused funds will be returned to the capital reserve fund.

Prepared by: Alex Acenas, Public Works Project Manager

Reviewed by: Michael Zimmermann, Capital Improvement Program Manager

Approved for Submission by: Roger Lee, Director of Public Works



CITY OF CUPERTINO

Legislation Text

File #: 19-6403, **Version:** 1

Subject: Municipal Code Amendments to Chapter 19.80 to clarify development standards in the Planned Development (P) Zoning Districts (Application No. MCA-2019-005; Applicant: City of Cupertino; Location: In P zoning districts located City-wide); Adoption of the Third Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt from CEQA.

That the City Council conduct the first reading of Ordinance No. 19-2191: "An Ordinance of the City Council of the City of Cupertino adopting the Third Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 19.80 (Planned Development (P) Zones) of the Cupertino Municipal Code to Clarify Development Standards in P Zones."



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

December 3, 2019

Subject

Municipal Code Amendments to Chapter 19.80 to clarify development standards in the Planned Development (P) Zoning Districts (Application No. MCA-2019-005; Applicant: City of Cupertino; Location: In P zoning districts located City-wide); Adoption of the Third Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt from CEQA.

Recommended Action

That the City Council conduct the first reading of the Draft Ordinance: "An Ordinance of the City Council of the City of Cupertino adopting the Third Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 19.80 (Planned Development (P) Zones) of the Cupertino Municipal Code to Clarify Development Standards in P Zones." (Attachment A).

Discussion

Background

The FY2019/20 City Council Work Program directs the City to clarify objective standards within the City's General Plan and Municipal Code. The Planning Commission and City Council reviewed areas that were identified by staff as needing clarity through Summer 2019. At the October 1, 2019 City Council meeting, the Council authorized staff to commence amendments identified in Phase 1 as follows:

- Community Form Diagram Text Box related to Heart of the City
- Community Form Footnotes related to building planes (slope lines)
- Cross-reference policies related to Heart of the City subareas
- Chapter 19.80 to clarify development standards in Planned Development (P) zones

The proposed amendments are to address the development standards in P zones. The proposed amendments have been identified with strikethroughs and underlines (as appropriate) in Attachment B.

Planning Commission Review

The proposed amendments were presented to the Planning Commission at its Regular meeting on November 12, 2019. The Commission received public comments, reviewed the Third Addendum to the Final EIR and the proposed amendments, and voted 3-0-2 (recused – Moore; absent – Takahashi) to adopt Resolution No. 6889 recommending that the City Council adopt the proposed Ordinance (see Attachment C).

Analysis

Chapter 19.80 of the Municipal Code governs Planned Development (P) Zones. The Zoning Map identifies properties zoned Planned Development with a “P” designation followed by a zoning reference for the allowed use. For example, P(CG) or P (CG, Res). The Zoning Map is available online at www.cupertino.org/gis. “Conceptual development plans” with broad development standards are proposed and adopted when a property is zoned Planned Development. “Definitive plans” with more specific development standards are proposed and adopted at the time of development within the P Zone.

The proposed amendments do not change the allowed uses in P Zones. They merely clarify the development standards. Specifically, for residential P zoning districts, the amendments allow residential and mixed-use residential development to occur without adoption of a definitive plan. The proposed amendments specify that where development standards are not established in a definitive plan (or other plans), the development standards for residential uses shall be those prescribed for the R-3 (multi-family) zone, and the development standards for non-residential uses shall be those prescribed for the zoning districts referenced in the parenthetical following “P” on the zoning map. For non-residential development projects, the development standards would be established through the required conceptual and definitive plans for the site. Residential and mixed-use residential projects could also still propose definitive plans if desired.

For residential development, the General Plan anticipates that much of the anticipated development would occur as attached multi-family housing infill developments. The General Plan includes several policies that support infill mixed-use residential development including:

- **Policy LU-1.3:** Land Use in all Citywide Mixed-Use Districts. Encourage land uses that support the activity and character of mixed-use districts and economic goals.
- **Strategy LU-1.3.1:** Commercial and Residential Uses. Review the placement of commercial and residential uses based on the following criteria:

“... 2. All mixed-use residential projects should be designed on the “mixed use village” concept discussed earlier in this Element...”

- **Policy LU-1.1:** Land Use and Transportation. Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors.
- **Policy LU-5.2:** Mixed-Use Villages. Where housing is allowed along major corridors or neighborhood commercial areas, development should promote mixed-use villages with active ground floor uses and public space. The development should help create an inviting pedestrian environment and activity center that can serve adjoining neighborhoods and businesses.
- **Strategy LU-8.3.1:** Mixed-Use. Consider mixed-use (office, commercial, residential) in certain commercial areas to encourage reinvestment and revitalization of sales-tax producing uses, when reviewing sites for regional housing requirements.
- The General Plan also envisions the development of sites with mixed-use zoning within the Special Areas to redevelop in a “mixed-use village” concept which encourages residential development in a mix of units for young professionals, couples and/or active seniors who like to live in an active “mixed-use village” environment.

Since the General Plan anticipates the development of sites with multi-family developments in a mixed-use format through infill development, multi-family (R-3) zoning standards would generally apply to residential development being included in the P zoning districts. For mixed-use residential development, the standards are clarified to, similarly, indicate that the zoning standards in the related zoning for the type of use proposed would apply i.e., for property with a mixed-use planned development with commercial and residential uses zoning, the development standards of the General Commercial (CG) zoning and the R-3 zoning would apply. The amendments also clarify that if there are any conflicts in the standards, the most restrictive standard would apply.

The proposed amendments will not impede the ability to develop the City’s Regional Housing Needs Allocation or housing for all income levels as anticipated by the City’s Housing Element. They instead allow development of properties without approval of a definitive plan as long as they meet existing zoning standards established in the Municipal Code. Residential and mixed-use residential projects could also still propose definitive plans if desired. The City will thus continue to be able to address its housing needs in compliance with its Housing Element.

Environmental Assessment

In 2014, the City Council certified a Final Environmental Impact Report (EIR) for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project (State Clearinghouse No. 2014032007), which was a program EIR prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The Final EIR analyzed land use alternatives that included citywide development allocations (as well as building heights and densities) in connection with the adoption of the Cupertino Community Vision 2015-2040 (General Plan). The following is a timeline of amendments to the project since adoption of the EIR in 2014. The General Plan and Associated Rezoning were adopted in December 2014, the Housing Element Update was adopted in May 2015, and modifications to the text and figures of the General Plan were adopted in October 2015 following adoption of an Addendum to the EIR and again, in August 2019 following adoption of a Second Addendum to the EIR.

When a lead agency has certified an EIR, Public Resources Code Section 21166 and CEQA Guidelines 15162 provide that no subsequent environmental review shall be required unless specified conditions have occurred (substantial changes in the project, substantial changes with respect to the circumstances under which the project is undertaken, or new information of substantial importance which was not known and could not have been known when the EIR was certified) and would result in new significant environmental effects or a substantial increase in the severity of significant environmental effects requiring major revisions to the EIR. CEQA Guidelines Section 15164 further states that if some changes or additions to a previously certified EIR are needed, but subsequent review is not required under CEQA Guidelines 15162, an addendum shall be prepared.

The City has prepared a Third Addendum to the Final EIR to evaluate whether the proposed modifications to Chapter 19.80 of the Municipal Code described in this Staff Report would require major revisions to the Final EIR or a subsequent EIR due to new significant environmental effects or a substantial increase in the severity of significant environmental effects previously identified in the EIR. The Third Addendum, which is included as Attachment D, provides analysis and cites substantial evidence in support of the conclusion that no subsequent environmental review is required because none of the conditions that would require preparation of a subsequent EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred.

Therefore, it is recommended that the Planning Commission recommend adoption of the Third Addendum, and no further environmental review is required for the modifications to Chapter 19.80 - Planned Development (P) zones in the Municipal Code described in this Staff Report.

In the alternative, adopting the proposed amendments to the Municipal Code is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that the Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. As the proposed amendments merely clarify the development standards that would apply in certain limited circumstances based on existing standards in the event alternative standards are not applied for, they will have no significant impact on the environment.

Public Noticing & Outreach

The following noticing has been conducted for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ Legal ad placed in newspaper <i>(at least 10 days prior to hearing)</i> ▪ Display ad placed in newspaper <i>(at least 10 days prior to hearing)</i> 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board <i>(four days prior to hearing)</i> ▪ Posted on the City of Cupertino's Web site <i>(four days prior to hearing)</i>

Fiscal Impact

There are no fiscal impacts of this Municipal Code Amendment.

Prepared by: Piu Ghosh, Planning Manager
Reviewed by: Benjamin Fu, Director of Community Development
Approved for Submission by: Deborah Feng, City Manager

ATTACHMENTS

- A. Draft Ordinance
- B. Redline document indicating changes in Chapter 19.80.
- C. Planning Commission Resolution No. 6889
- D. Third Addendum to the Final EIR

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADOPTING THE THIRD ADDENDUM TO THE 2014 GENERAL PLAN FINAL
EIR AND AMENDMENTS TO CHAPTER 19.80 (PLANNED DEVELOPMENT
(P) ZONES) OF THE CUPERTINO MUNICIPAL CODE TO CLARIFY
DEVELOPMENT STANDARDS IN P ZONES

SECTION I: PROJECT DESCRIPTION

Application No: MCA-2019-005
Applicant: City of Cupertino
Location: Citywide
APN#s: Various

SECTION II: RECITALS

WHEREAS, the City Council FY2019/2020 Work Program directs the City to clarify objective standards within the City's General Plan and Municipal Code; and

WHEREAS, at the October 1, 2019 Council Meeting, the City Council reviewed areas that were identified by staff and the Planning Commission as needing clarity and authorized staff to commence preparation of amendments to the Planned Development (P) Zones to clarify the development standards; and

WHEREAS, the Ordinance amends the City's Municipal Code as set forth in Exhibit MCA to clarify the development standards to be applied to non-residential, residential and mixed-use residential projects within P Zones; and

WHEREAS, the Ordinance is consistent with the City's General Plan and the public health, safety, convenience, and general welfare, and the amendments herein are necessary to implement the City's General Plan (Community Vision 2015-2040); and

WHEREAS, the proposed modifications to allow development in residential P Zones without the adoption of a definitive plan, and to specify development standards for anticipated uses in P Zones when a definitive plan is not proposed or adopted based on existing development standards for those uses in other zones, will not impede the ability to develop the City's Regional Housing Needs Allocation or housing for all income levels as anticipated by the City's Housing Element. The City will thus continue to be able to address the housing needs of the region while clarifying development standards in the P zone; and

WHEREAS, the proposed modifications will not result in any of the conditions requiring preparation of a subsequent EIR as described in Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, the City has prepared a Third Addendum (“Third Addendum”) to the Final Environmental Impact Report (“Final EIR”) for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project (State Clearinghouse No. 2014032007) for Municipal Code Amendments to clarify development standards in the Planned Development (P) Zones in compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, “CEQA Guidelines”); and

WHEREAS, the Third Addendum provides analysis and cites substantial evidence that supports the conclusion that no subsequent environmental review is required because there are no substantial changes in the project or the circumstances under which the project is to be undertaken that would result in new or substantially more severe environmental impacts requiring major revisions to the Final EIR, and there is no new information that involves new significant environmental effects or a substantial increase in the severity of previously identified environmental effects that would require preparation of a subsequent EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, in the alternative, adoption of the Ordinance is not a project under CEQA and is exempt from CEQA under Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the clarifying municipal code amendments may have a significant effect on the environment; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on November 12, 2019 to consider the Ordinance; and

WHEREAS, on November 12, 2019, the Third Addendum was presented to the Planning Commission; and

WHEREAS, on November 12, 2019, by Resolution 6889, the Planning Commission recommended on a 3-0-2 vote (Recused – Moore; Absent – Takahashi) that the City Council adopt the Third Addendum for modifications to the project and the proposed Municipal Code Amendments to clarify development standards in the Planned Development (P) Zones; and

WHEREAS, on December 3, 2019, upon due notice, the City Council has held at least one public hearing to consider the Municipal Code Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance; and

WHEREAS, prior to taking action on this Ordinance, the City Council has exercised its independent judgment and reviewed and considered the information in the Third Addendum, which concludes that no further environmental review is required for the Municipal Code Amendments included in the Ordinance.

SECTION III

NOW, THEREFORE, BE IT ORDAINED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby takes the following actions:

Section 1.

- A. Finds that the recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.
- B. Determines that the Third Addendum reflects the independent judgment of the City.
- C. Adopts the Third Addendum to the Final EIR for the modifications to the Municipal Code Title 19 related to Planned Development (P) Zones;
- D. In the alternative, finds that this Ordinance is not a project under the requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the City Code to clarify development standards in P zones would have no or only a de minimis effect on the environment because they merely adopt existing development standards for anticipated uses and maintain existing provisions allowing adoption of alternative development standards through approval of conceptual and definitive plans. The foregoing determination is made by the City Council in its independent judgment; and

Section 2. The City Council further finds the following as set forth by Municipal Code 19.152.020.C:

1. That the proposed zoning is in accord with Title 19 of the Municipal Code and the City's Comprehensive General Plan (Community Vision 2040) and the proposed amendments are internally consistent with Title 19 of the Municipal Code.

The General Plan anticipates much of the development in the City would occur as infill development as attached multi-family housing. The General Plan has several policies that support in-fill mixed-use residential development including Policies LU-1.3, LU-1.1, LU-5.2, Strategies LU-1.3.1 and LU-8.3.1 and language to support the concept of mixed-use villages. The proposed amendments do not change allowed uses, but clarify development standards to be applied, where standards are not developed through various zoning plans. Since sites are anticipated to be developed in a mixed-use attached multi-family housing format, the R-3 zoning standards would apply to residential development in the P Zoning districts, unless a property owner elects to prepare a definitive plan. For mixed-use residential development, the standards are clarified to, similarly, indicate that the zoning standards in the related zoning for the type of use proposed would apply. I.e., for property with a mixed-use planned development with commercial and residential uses zoning, the development standards of the General Commercial (CG) zoning and the R-3 zoning would apply. The amendments also clarify that if there are any conflicts in the standards, the most restrictive standard would apply. The amendments thus implement, and are consistent with the General Plan and are internally consistent with Title 19 of the Municipal Code.

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

The City has prepared a Third Addendum Final EIR for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project that analyzes the potential environmental effects of the proposed zoning amendments. The City Council has exercised its independent judgment and reviewed and considered the information in the Third Addendum, which concludes that no further environmental review is required for the proposed zoning amendments to comply with CEQA.

In the alternative, adoption of the Ordinance is not a project under and is exempt from CEQA under Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the clarifying municipal code amendments may have a significant effect on the environment.

3. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).

All the sites for which the standards are being clarified already have access to utilities and are compatible with adjoining land uses. To the extent that there are deficient utilities, the City has adopted mitigation measures to ensure that any future developments would need to provide the appropriate utilities to accommodate the development. The proposed amendments do not affect the residential density of property and would implement the Land Use Element of the General Plan by clarifying the development standards for development.

4. The proposed zoning will promote orderly development of the City.

The proposed Municipal Code Amendments will promote orderly development in the City by allowing development with clear standards.

5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed Municipal Code Amendments are not detrimental to the health, safety, peace, morals and general welfare since these are changes that implement the Land Use Element of the City's General Plan and clarify standards for development. Additionally, where health or safety impacts have been identified in the 2014 General Plan Final EIR, mitigation measures have been identified which would be applicable to any development on P Zone sites.

Section 3. The City Council further finds the following:

The proposed amendments will not impede the ability to develop the City's Regional Housing Needs Allocation or housing for all income levels as anticipated by the City's Housing Element. Instead, the amendments allow residential development of properties without approval of a definitive plan if they meet existing zoning standards established in the Municipal Code. The City will thus continue to be able to address its housing needs in compliance with its Housing Element.

Section 4. The City Council approves the Amendments to the Municipal Code (Application No. MCA-2019-005) as shown in Exhibit MCA and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published Municipal Code.

Section 5. If any portion of this Ordinance or its application 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 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.

Section 6. The City Clerk shall give notice of adoption of this Ordinance as required by law.

Section 7. This Ordinance shall take effect 30 days after the second reading of the ordinance.

INTRODUCED at a regular meeting of the City Council of the City of Cupertino the 3rd day of December, 2019 and ENACTED at a regular meeting of the City Council of the City of Cupertino the ___ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED: _____ _____, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Grace Schmidt, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	 _____ Date

CHAPTER 19.80: PLANNED DEVELOPMENT (P) ZONES

Section

- 19.80.010 Purpose.
- 19.80.020 Applicability of regulations.
- 19.80.030 Establishment of districts–Permitted and conditional uses and development standards.
- 19.80.040 Zoning or rezoning.
- 19.80.050 Development permit.

19.80.010 Purpose.

A. The planned development (P) zoning district is intended to provide a means of guiding land development or redevelopment of the City that is uniquely suited for planned coordination of land uses and to provide for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives.

B. The planned development zoning district is specifically intended to encourage variety in the development pattern of the community; to promote a more desirable living environment; to encourage creative approaches in land development; to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public or private common open space by establishing a process to consider and approve conceptual and definitive plans that provide development standards and regulations to advance these goals.

19.80.020 Applicability of Regulations.

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished, in any planned development zoning district, except in accordance with the provisions set forth in this chapter.

19.80.030 Establishment of Districts–Permitted and Conditional Uses and Development Standards.

A. Planned development zoning districts may be established, modified or removed from the zoning map, and the regulations applicable to any planned development district may be established, modified or deleted in accord with the procedures described in this chapter.

B. All P districts shall be identified on the zoning map with the letter coding "P" followed by a specific reference to the general type of use allowed in the particular planned development zoning district. For example, a planned development zoning district in which the uses are to be general commercial in nature, would be designated "P(CG)." A planned development zoning district in which the uses are intended to be a mix of general commercial and residential would be designated "P(CG, Res)."

C. Permitted uses in a P zoning district shall consist of all uses which are permitted in the zoning district referenced following the letter "P", unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses. For example, the permitted uses in a P(CG) zoning district are the same uses which are permitted in the CG zoning district. For sites with a mixed-use residential designation, Section 19.80.030E shall apply.

D. Conditional uses in a P zoning district shall consist of all uses which require the issuance of a conditional use permit in the zoning district referenced following the letter "P," unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses. For example, the conditional uses in a P(CG) zoning district are the same uses which require a conditional use permit in the CG zoning district. Each conditional use in a P zoning district requires a separate conditional use permit. For sites with a mixed-use residential designation, Section 19.80.030E shall apply.

E. For sites with a mixed-use residential designation the following shall apply:

1. For sites in the Monta Vista Village Special Area, residential shall be a permitted use.
2. If a site is listed as a Priority Housing Site in the City's adopted Housing Element of the General Plan, then residential development that does not exceed the number of units designated for the site in the Housing Element shall be a permitted use.
3. Residential development on sites not designated as Priority Housing Sites in the City's adopted Housing Element of the General Plan and residential development on a Priority Housing Site that exceeds the number of units designated for that Priority Housing Site shall be a conditional use, except as provided in subsection 5, below.
4. Priority Housing Sites shall be shown on the City's zoning map.
5. For sites zoned P(R3, CG), no conceptual or definitive plans shall be required to establish permitted and conditional uses. Multifamily residential use is the primary permitted use. Commercial uses may be incorporated into the development on the ground floor but shall not be the primary permitted use.

F. The development standards and regulations for residential only and mixed-use residential projects in a P zoning district shall consist of the following:

1. All development standards and regulations in the General Plan and any adopted specific plan, conceptual development plan, definitive plan, or other zoning plan, and, to the extent not addressed in those plans, all development standards and regulations for the zoning district referenced following the letter "P." The development standards and regulations for a residential development are those established for the R-3 zoning district.

2. In implementing subsection (1) above, mixed-use projects shall comply with the development standards and regulations in the R-3 zone and the referenced zoning district by proposed use. For example, residential portions of the project shall comply with the development standards and regulations in the R-3 zoning, commercial portions of the project shall comply with the development standards and regulations in the CG zoning, industrial portions of the project shall comply with the development standards and regulations in the ML/MP zoning, whichever is referenced, and office portions of the project shall comply with the development standards and regulations in the OA/OP zoning, whichever is referenced. In the event of any conflicts, the most restrictive standard or regulation shall apply.

G. For projects with no residential component proposed in a P zoning district, the development standards and regulations of the permitted and conditional uses shall be established in conjunction with the approval of conceptual and definitive plans, and such projects shall also comply with any adopted specific plan, or other zoning plan. For sites which require a specific plan prior to development approval, the permitted and conditional uses and all development regulations shall be as shown in the specific plan.

19.80.040 Zoning or Prezoning.

A. Application. The applicant for zoning, prezoning, or rezoning of property to a P zoning district shall, in addition to information required per Chapter 19.12, at the time of the application, submit to the Director of Community Development a conceptual development plan, which shall include:

1. A general description of the proposed uses,
2. The proposed traffic-circulation system,
3. A topographical map of the site and the neighboring properties,
4. A landscaping plan.

B. Process and Review Authority.

1. Applications for the zoning, rezoning or rezoning of property shall be processed in the manner prescribed in Chapter 19.152.

C. Findings. No such ordinance may be adopted unless, in addition to making the findings required by Chapter 19.152, the following findings are made:

1. That the conceptual development plan attached to the application is consistent with both the General Plan and any underlying zoning designation which regulates the site;

2. That the conceptual development plan provides for an organized and unified system of land uses and land use intensities which would be compatible with the surrounding neighborhood;

3. That the conceptual development plan for a residential use ensures that the proposed development provides adequate active and passive oriented open space within the development to satisfy the needs of future residents and, further, that the proposed development provides adequate landscaping that will function in a manner which will enhance the individual development and the community as a whole;

4. That the conceptual development plan ensures that the location of the site with respect to major thoroughfares and uses outside the zone would not create undue and unreasonable traffic congestion in the area;

5. That the conceptual development plan makes provisions for adequate parking, waste disposal and undergrounding of utilities.

D. Modifications. Any modification of the conceptual plan requires the submission of a rezoning application.

19.80.050 Development Permit.

Process and Review Authority - Prior to any development within a planned development zoning district, the applicant must obtain a development permit and a required or requested definitive plan approving the development pursuant to the requirements of Chapter 19.156. A required or requested definitive plan may be reviewed and approved concurrently with the development permit.

Cupertino, CA Municipal Code

CHAPTER 19.80: PLANNED DEVELOPMENT (P) ZONES

Section

- 19.80.010 Purpose.
- 19.80.020 Applicability of regulations.
- 19.80.030 Establishment of districts–Permitted and conditional uses and development standards.
- 19.80.040 Zoning or prezoning.
- 19.80.050 Development permit.

19.80.010 Purpose.

A. The planned development (P) zoning district is intended to provide a means of guiding land development or redevelopment of the City that is uniquely suited for planned coordination of land uses and to provide for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives.

B. The planned development zoning district is specifically intended to encourage variety in the development pattern of the community; to promote a more desirable living environment; to encourage creative approaches in land development; to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public or private common open space by establishing a process to consider and approve conceptual and definitive plans that provide development standards and regulations to advance these goals.

19.80.020 Applicability of Regulations.

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished, in any planned development zoning district, except in accordance with the provisions set forth in this chapter.

19.80.030 Establishment of Districts–Permitted and Conditional Uses and Development Standards.

A. Planned development zoning districts may be established, modified or removed from the zoning map, and the regulations applicable to any planned development

district may be established, modified or deleted in accord with the procedures described in this chapter.

B. All P districts shall be identified on the zoning map with the letter coding "P" followed by a specific reference to the general type of use allowed in the particular ~~planning-planned~~ development zoning district. For example, a planned development zoning district in which the uses are to be general commercial in nature, would be designated "P(CG)." A planned development zoning district in which the uses are intended to be a mix of general commercial and residential would be designated "P(CG/Res)."

C. Permitted uses in a P zoning district shall consist of all uses which are permitted in the zoning district ~~which constitutes the designation referenced~~ following the letter coding "P." "P", ~~unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses.~~ For example, the permitted uses in a P(CG) zoning district are the same uses which are permitted in ~~a~~the CG zoning district. For sites with a mixed-use residential designation, Section ~~19.80.030F~~19.80.030E shall apply.

D. Conditional uses in a P zoning district shall consist of all uses which require the issuance of a conditional use permit in the zoning district ~~which constitutes the designation referenced~~ following the letter coding "P." "P", ~~unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses.~~ For example, the conditional uses in a P(CG) zoning district are the same uses which require a conditional use permit in the CG zoning district. Each conditional use in a P zoning district requires a separate conditional use permit. For sites with a mixed-use residential designation, Section ~~19.80.030F~~19.80.030E shall apply.

~~—E. The general category of uses in a P zone shall be defined at the time of the conceptual plan, and shall be consistent with the adopted General Plan relative to the property in the application. The development standards and regulations of the permitted and conditional uses shall be established in conjunction with the approval of the conceptual and definitive plans, unless specifically identified in Section 19.80.030F below. Developments which are not subject to discretionary approval by the City must comply with the development standards of the underlying zoning district.~~

~~—F~~ E. For sites with a mixed-use residential designation the following shall apply:

1. For sites in the Monta Vista Village Special Area, residential shall be a permitted use.

2. If a site is listed as a Priority Housing Site in the City's adopted Housing Element of the General Plan, then residential development that does not exceed the number of

units designated for the site in the Housing Element shall be a permitted use.

3. Residential development on sites not designated as Priority Housing Sites in the City's adopted Housing Element of the General Plan and residential development on a Priority Housing Site that exceeds the number of units designated for that Priority Housing Site shall be a conditional use, except as provided in subsection 5, below.

4. Priority Housing Sites shall be shown on the City's zoning map.

5. For sites zoned P(R3, CG), no conceptual or definitive plans shall be required to establish permitted and conditional uses. Multifamily residential use is the primary permitted use. Commercial uses may be incorporated into the development on the ground floor but shall not be the primary permitted use.

F. The development standards and regulations for residential only and mixed-use residential projects in a P zoning district shall consist of the following:

1. All development standards and regulations in the General Plan and any adopted specific plan, conceptual development plan, definitive plan, or other zoning plan, and, to the extent not addressed in those plans, all development standards and regulations for the zoning district referenced following the letter "P." The development standards and regulations for a residential development are those established for the R-3 zoning district.

2. In implementing subsection (1) above, mixed-use projects shall comply with the development standards and regulations in the R-3 zone and the referenced zoning district by proposed use. For example, residential portions of the project shall comply with the development standards and regulations in the R-3 zoning, commercial portions of the project shall comply with the development standards and regulations in the CG zoning, industrial portions of the project shall comply with the development standards and regulations in the ML/MP zoning, whichever is referenced, and office portions of the project shall comply with the development standards and regulations in the OA/OP zoning, whichever is referenced. In the event of any conflicts, the most restrictive standard or regulation shall apply.

G. For projects with no residential component proposed in a P zoning district, the development standards and regulations of the permitted and conditional uses shall be established in conjunction with the approval of conceptual and definitive plans, and such projects shall also comply with any adopted specific plan, or other zoning plan.

For sites which require a specific plan prior to development approval, the permitted and conditional uses and all development regulations shall be as shown in the specific plan.

19.80.040 Zoning or Prezoning.

A. Application. The applicant for zoning, prezoning, or rezoning of property to a P zoning district shall, in addition to information required per Chapter 19.12, at the time of the application, submit to the Director of Community Development a conceptual development plan, which shall include:

1. A general description of the proposed uses,
2. The proposed traffic-circulation system,
3. A topographical map of the site and the neighboring properties,
4. A landscaping plan.

B. Process and Review Authority.

1. Applications for the zoning, prezoning or rezoning of property shall be processed in the manner prescribed in Chapter 19.152.

C. Findings. No such ordinance may be adopted unless, in addition to making the findings required by Chapter 19.152, the following findings are made:

1. That the conceptual development plan attached to the application is consistent with both the General Plan and any underlying zoning designation which regulates the site;

2. That the conceptual development plan provides for an organized and unified system of land uses and land use intensities which would be compatible with the surrounding neighborhood;

3. That the conceptual development plan for a residential use ensures that the proposed development provides adequate active and passive oriented open space within the development to satisfy the needs of future residents and, further, that the proposed development provides adequate landscaping that will function in a manner which will enhance the individual development and the community as a whole;

4. That the conceptual development plan ensures that the location of the site with respect to major thoroughfares and uses outside the zone would not create undue and unreasonable traffic congestion in the area;

5. That the conceptual development plan makes provisions for adequate parking, waste disposal and undergrounding of utilities.

D. Modifications. Any modification of the conceptual plan requires the submission of a rezoning application.

19.80.050 Development Permit.

Process and Review Authority - Prior to any development within a planned development zoning district, the applicant must obtain a development permit and a required or requested definitive plan approving the development pursuant to the requirements of Chapter 19.156. A required or requested definitive plan may be reviewed and approved concurrently with the development permit.

RESOLUTION NO. 6889

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING THAT THE CITY COUNCIL ADOPT MCA-2019-005, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO ADOPTING THE THIRD ADDENDUM TO THE 2014 GENERAL PLAN EIR AND AMENDMENTS TO CHAPTER 19.80 (PLANNED DEVELOPMENT (P) ZONES) OF THE CUPERTINO MUNICIPAL CODE TO CLARIFY DEVELOPMENT STANDARDS IN P ZONES

WHEREAS, at a duly noticed public hearing held on November 12, 2019, the Planning Commission of the City of Cupertino considered the Third Addendum to the 2014 General Plan Amendment, Housing Element Update, and Associated Rezoning Project Environmental Impact Report and proposed amendments to the City's Municipal Code (Chapter 19.80) to clarify development standards in the Planned Development (P) Zones; and

WHEREAS, the Planning Commission has duly considered all evidence, including testimony and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission hereby finds and declares that each of the recitals and findings set forth in the Draft Ordinance attached hereto as Exhibit A are true and correct and are incorporated into this Resolution as though fully set forth herein.
2. The Planning Commission recommends that the City Council, in substantially similar form to the Draft Ordinance attached hereto as Exhibit A, adopt the Third Addendum to the 2014 General Plan Amendment, Housing Element Update, and Associated Rezoning Project Environmental Impact Report and the proposed Municipal Code Amendments to Chapter 19.80 (Planned (P) Development Zones) for the reasons stated in the recitals and findings set forth in the Draft Ordinance.

PASSED AND ADOPTED this 12th day of November, 2019, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Chair Wang, Vice Chair Saxena, Fung
NOES: COMMISSIONERS: None
ABSTAIN: COMMISSIONERS: Moore
ABSENT: COMMISSIONERS: Takahashi

ATTEST:



Benjamin Fu
Director, Community Development

APPROVED:



R Wang
Chair, Planning Commission

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADOPTING THE THIRD ADDENDUM TO THE 2014 GENERAL PLAN FINAL
EIR AND AMENDMENTS TO CHAPTER 19.80 (PLANNED DEVELOPMENT
(P) ZONES) OF THE CUPERTINO MUNICIPAL CODE TO CLARIFY
DEVELOPMENT STANDARDS IN P ZONES

SECTION I: PROJECT DESCRIPTION

Application No: MCA-2019-005
Applicant: City of Cupertino
Location: Citywide
APN#s: Various

SECTION II: RECITALS

WHEREAS, the City Council FY2019/2020 Work Program directs the City to clarify objective standards within the City's General Plan and Municipal Code; and

WHEREAS, at the October 1, 2019 Council Meeting, the City Council reviewed areas that were identified by staff and the Planning Commission as needing clarity and authorized staff to commence preparation of amendments to the Planned Development (P) Zones to clarify the development standards; and

WHEREAS, the Ordinance amends the City's Municipal Code as set forth in Exhibit A to clarify the development standards to be applied to non-residential, residential and mixed-use residential projects within P Zones; and

WHEREAS, the Ordinance is consistent with the City's General Plan and the public health, safety, convenience, and general welfare, and the amendments herein are necessary to implement the City's General Plan (Community Vision 2015-2040); and

WHEREAS, the proposed modifications to allow development in residential P Zones without the adoption of a definitive plan, and to specify development standards for anticipated uses in P Zones when a definitive plan is not adopted based on existing development standards for those uses in other zones, will not impede the ability to develop the City's Regional Housing Needs Allocation or housing for all income levels as anticipated by the City's Housing Element. The City will thus continue to be able to address the housing needs of the region while clarifying development standards in the P zone; and

WHEREAS, the proposed modifications will not result in any of the conditions requiring preparation of a subsequent EIR as described in Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, the City has prepared a Third Addendum ("Third Addendum") to the Final Environmental Impact Report ("Final EIR") for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project (State Clearinghouse No. 2014032007) for Municipal Code Amendments to clarify development standards in the Planned Development (P) Zones in compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"); and

WHEREAS, the Third Addendum provides analysis and cites substantial evidence that supports the conclusion that no subsequent environmental review is required because there are no substantial changes in the project or the circumstances under which the project is to be undertaken that would result in new or substantially more severe environmental impacts requiring major revisions to the Final EIR, and there is no new information that involves new significant environmental effects or a substantial increase in the severity of previously identified environmental effects that would require preparation of a subsequent EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, adoption of the Ordinance is exempt from CEQA under Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the clarifying municipal code amendments may have a significant effect on the environment; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on November 12, 2019 to consider the Ordinance; and

WHEREAS, on November 12, 2019, the Third Addendum was presented to the Planning Commission; and

WHEREAS, on November 12, 2019, by Resolution _____, the Planning Commission recommended on a _____ vote that the City Council adopt the Third Addendum for modifications to the project and the proposed Municipal Code Amendments to clarify development standards in the Planned Development (P) Zones; and

WHEREAS, on December 3, 2019, upon due notice, the City Council has held at least one public hearing to consider the Municipal Code Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance; and

WHEREAS, prior to taking action on this Ordinance, the City Council has exercised its independent judgment and reviewed and considered the information in the Third Addendum, which concludes that no further environmental review is required for the Municipal Code Amendments included in the Ordinance.

SECTION III

NOW, THEREFORE, BE IT ORDAINED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby takes the following actions:

- A. Determines that the Third Addendum reflects the independent judgment of the City.
- B. Adopts the Third Addendum to the Final EIR for the modifications to the Municipal Code Title 19 related to Planned Development (P) Zones;
- C. Finds that this Ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the City Code to clarify development standards in P zones would have no or only a de minimis effect on the environment because they merely adopt existing development standards for anticipated uses and maintain existing provisions allowing adoption of alternative development standards through approval of conceptual and definitive plans. The foregoing determination is made by the City Council in its independent judgment; and
- D. Adopts the Municipal Code amendments based on the findings described above, the public hearing record, and the conditions specified below:

Section 1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. The City Council finds the following as set forth by Municipal Code 19.152.020.C:

1. That the proposed zoning is in accord with Title 19 of the Municipal Code and the City's Comprehensive General Plan (Community Vision 2040) and the proposed amendments are internally consistent with Title 19 of the Municipal Code.

The General Plan anticipates much of the development in the City would occur as infill development as attached multi-family housing. The General Plan has several policies that support in-fill mixed-use residential development including Policies LU-1.3, LU-1.1, LU-5.2, Strategies LU-1.3.1 and LU-8.3.1 and language to support the concept of mixed-use villages. The proposed amendments to not change allowed uses, but clarify development standards to be applied, where standards are not developed through various zoning plans. Since sites are anticipated to be developed in a mixed-use attached multi-family housing format, the R-3 zoning standards would apply to residential development in the P Zoning districts, unless a property owner elects to prepare a definitive plan. For mixed-use residential development, the standards are clarified to, similarly, indicate that the zoning standards in the related zoning for the type of use proposed would apply. I.e., for property with a mixed-use planned development with commercial and residential uses zoning, the development standards of the General Commercial (CG) zoning and the R-3 zoning would apply. The amendments also clarify that if there are any conflicts in the standards, the most restrictive standard would apply. The amendments thus implement, and are consistent with the General Plan and are internally consistent with Title 19 of the Municipal Code.

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

The City has prepared a Third Addendum Final EIR for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project that analyzes the potential environmental effects of the proposed zoning amendments. The City Council has exercised its independent judgment and reviewed and considered the information in the Third Addendum, which concludes that no further environmental review is required for the proposed zoning amendments to comply with CEQA.

Adoption of the Ordinance is exempt from CEQA under Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the clarifying municipal code amendments may have a significant effect on the environment.

3. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).

All the sites for which the standards are being clarified already have access to utilities and are compatible with adjoining land uses. To the extent that there are deficient utilities, the City has adopted mitigation measures to ensure that any future developments would need to provide the appropriate utilities to accommodate the development. The proposed amendments do not affect

the residential density of property and would implement the Land Use Element of the General Plan by clarifying the development standards for development.

4. The proposed zoning will promote orderly development of the City.

The proposed Municipal Code Amendments will promote orderly development in the City by allowing development with clear standards.

5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed Municipal Code Amendments are not detrimental to the health, safety, peace, morals and general welfare since these are conforming changes that are necessary to implement the Land Use Element of the City's General Plan. Additionally, where health or safety impacts have been identified in the Final EIR, mitigation measures have been identified which would be applicable to any development on these sites.

Section 3. The City Council approves the Amendments to the Municipal Code (Application No. MCA-2019-005) as shown in Exhibit A and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published Municipal Code.

Section 4. If any portion of this Ordinance or its application 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 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.

Section 5. The City Council directs the Director of Community Development to file a Notice of Determination with the Santa Clara County Recorder in accordance with CEQA and the CEQA guidelines.

Section 6. The City Clerk shall give notice of adoption of this Ordinance as required by law.

Section 7. This Ordinance shall take effect 30 days after the second reading of the ordinance.

INTRODUCED at a regular meeting of the City Council of the City of Cupertino the 3rd day of December, 2019 and ENACTED at a regular meeting of the City Council of the City of Cupertino the ___ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Grace Schmidt, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	 _____ Date

CHAPTER 19.80: PLANNED DEVELOPMENT (P) ZONES

Section

- 19.80.010 Purpose.
- 19.80.020 Applicability of regulations.
- 19.80.030 Establishment of districts–Permitted and conditional uses and development standards.
- 19.80.040 Zoning or rezoning.
- 19.80.050 Development permit.

19.80.010 Purpose.

A. The planned development (P) zoning district is intended to provide a means of guiding land development or redevelopment of the City that is uniquely suited for planned coordination of land uses and to provide for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives.

B. The planned development zoning district is specifically intended to encourage variety in the development pattern of the community; to promote a more desirable living environment; to encourage creative approaches in land development; to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public or private common open space by establishing a process to consider and approve conceptual and definitive plans that provide development standards and regulations to advance these goals.

19.80.020 Applicability of Regulations.

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished, in any planned development zoning district, except in accordance with the provisions set forth in this chapter.

19.80.030 Establishment of Districts–Permitted and Conditional Uses and Development Standards.

A. Planned development zoning districts may be established, modified or removed from the zoning map, and the regulations applicable to any planned development district may be established, modified or deleted in accord with the procedures described in this chapter.

B. All P districts shall be identified on the zoning map with the letter coding "P" followed by a specific reference to the general type of use allowed in the particular planned development zoning district. For example, a planned development zoning district in which the uses are to be general commercial in nature, would be designated "P(CG)." A planned development zoning district in which the uses are intended to be a mix of general commercial and residential would be designated "P(CG, Res)."

C. Permitted uses in a P zoning district shall consist of all uses which are permitted in the zoning district referenced following the letter "P", unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses. For example, the permitted uses in a P(CG) zoning district are the same uses which are permitted in the CG zoning district. For sites with a mixed-use residential designation, Section 19.80.030E shall apply.

D. Conditional uses in a P zoning district shall consist of all uses which require the issuance of a conditional use permit in the zoning district referenced following the letter "P," unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses. For example, the conditional uses in a P(CG) zoning district are the same uses which require a conditional use permit in the CG zoning district. Each conditional use in a P zoning district requires a separate conditional use permit. For sites with a mixed-use residential designation, Section 19.80.030E shall apply.

E. For sites with a mixed-use residential designation the following shall apply:

1. For sites in the Monta Vista Village Special Area, residential shall be a permitted use.

2. If a site is listed as a Priority Housing Site in the City's adopted Housing Element of the General Plan, then residential development that does not exceed the number of units designated for the site in the Housing Element shall be a permitted use.

3. Residential development on sites not designated as Priority Housing Sites in the City's adopted Housing Element of the General Plan and residential development on a Priority Housing Site that exceeds the number of units designated for that Priority Housing Site shall be a conditional use, except as provided in subsection 5, below.

4. Priority Housing Sites shall be shown on the City's zoning map.

5. For sites zoned P(R3, CG), no conceptual or definitive plans shall be required to establish permitted and conditional uses. Multifamily residential use is the primary permitted use. Commercial uses may be incorporated into the development on the ground floor but shall not be the primary permitted use.

F. The development standards and regulations for residential only and mixed-use residential projects in a P zoning district shall consist of the following:

1. All development standards and regulations in the General Plan and any adopted specific plan, conceptual development plan, definitive plan, or other zoning plan, and, to the extent not addressed in those plans, all development standards and regulations for the zoning district referenced following the letter "P." The development standards and regulations for a residential development are those established for the R-3 zoning district.

2. In implementing subsection (1) above, mixed-use projects shall comply with the development standards and regulations in the R-3 zone and the referenced zoning district by proposed use. For example, residential portions of the project shall comply with the development standards and regulations in the R-3 zoning, commercial portions of the project shall comply with the development standards and regulations in the CG zoning, industrial portions of the project shall comply with the development standards and regulations in the ML/MP zoning, whichever is referenced, and office portions of the project shall comply with the development standards and regulations in the OA/OP zoning, whichever is referenced. In the event of any conflicts, the most restrictive standard or regulation shall apply.

G. For projects with no residential component proposed in a P zoning district, the development standards and regulations of the permitted and conditional uses shall be established in conjunction with the approval of conceptual and definitive plans, and such projects shall also comply with any adopted specific plan, or other zoning plan. For sites which require a specific plan prior to development approval, the permitted and conditional uses and all development regulations shall be as shown in the specific plan.

19.80.040 Zoning or Prezoning.

A. Application. The applicant for zoning, prezoning, or rezoning of property to a P zoning district shall, in addition to information required per Chapter 19.12, at the time of the application, submit to the Director of Community Development a conceptual development plan, which shall include:

1. A general description of the proposed uses,
2. The proposed traffic-circulation system,
3. A topographical map of the site and the neighboring properties,
4. A landscaping plan.

B. Process and Review Authority.

1. Applications for the zoning, prezoning or rezoning of property shall be processed in the manner prescribed in Chapter 19.152.

C. Findings. No such ordinance may be adopted unless, in addition to making the findings required by Chapter 19.152, the following findings are made:

1. That the conceptual development plan attached to the application is consistent with both the General Plan and any underlying zoning designation which regulates the site;

2. That the conceptual development plan provides for an organized and unified system of land uses and land use intensities which would be compatible with the surrounding neighborhood;

3. That the conceptual development plan for a residential use ensures that the proposed development provides adequate active and passive oriented open space within the development to satisfy the needs of future residents and, further, that the proposed development provides adequate landscaping that will function in a manner which will enhance the individual development and the community as a whole;

4. That the conceptual development plan ensures that the location of the site with respect to major thoroughfares and uses outside the zone would not create undue and unreasonable traffic congestion in the area;

5. That the conceptual development plan makes provisions for adequate parking, waste disposal and undergrounding of utilities.

D. Modifications. Any modification of the conceptual plan requires the submission of a rezoning application.

19.80.050 Development Permit.

Process and Review Authority - Prior to any development within a planned development zoning district, the applicant must obtain a development permit and a required or requested definitive plan approving the development pursuant to the requirements of Chapter 19.156. A required or requested definitive plan may be reviewed and approved concurrently with the development permit.

Third Addendum to the 2014 Certified General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR

State Clearinghouse No. 2014032007

Prepared by the City of Cupertino



November 8, 2019

SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum to the Final Environmental Impact Report (“Final EIR”) for the City of Cupertino General Plan Amendment, Housing Element Update and Associated Rezoning (the “Final EIR project”) (State Clearinghouse Number 2014032007) addresses proposed clarifications to the development standards for Planned Development (P) Zoning Districts. The City of Cupertino certified the Final EIR in December 2014, adopted the General Plan in December 2014 with subsequent minor edits adopted in October 2015, and adopted the Housing Element in March 2015. The Final EIR analyzed land use alternatives that included citywide development allocations (as well as building heights and densities) for five Special Areas, seven Study Areas, and other Special Areas.

The purpose of this Addendum is to evaluate whether the proposed modifications to the Planned Development Zoning Districts, which are described in Section 3.0 Proposed Modifications to the Final EIR Project below, require major revisions to the Final EIR or a subsequent EIR due to new significant impacts or a substantial increase in the severity of significant impacts previously identified in the Final EIR. This Addendum has been prepared by the City of Cupertino as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the regulations and policies of the City of Cupertino. For the reasons articulated in this Addendum and based on substantial evidence in the record, the City concludes that no subsequent EIR is required.

SECTION 2.0 STANDARD FOR PREPARATION OF AN ADDENDUM

CEQA Guidelines Section 15164 states that the lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR have occurred.

CEQA Guidelines Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

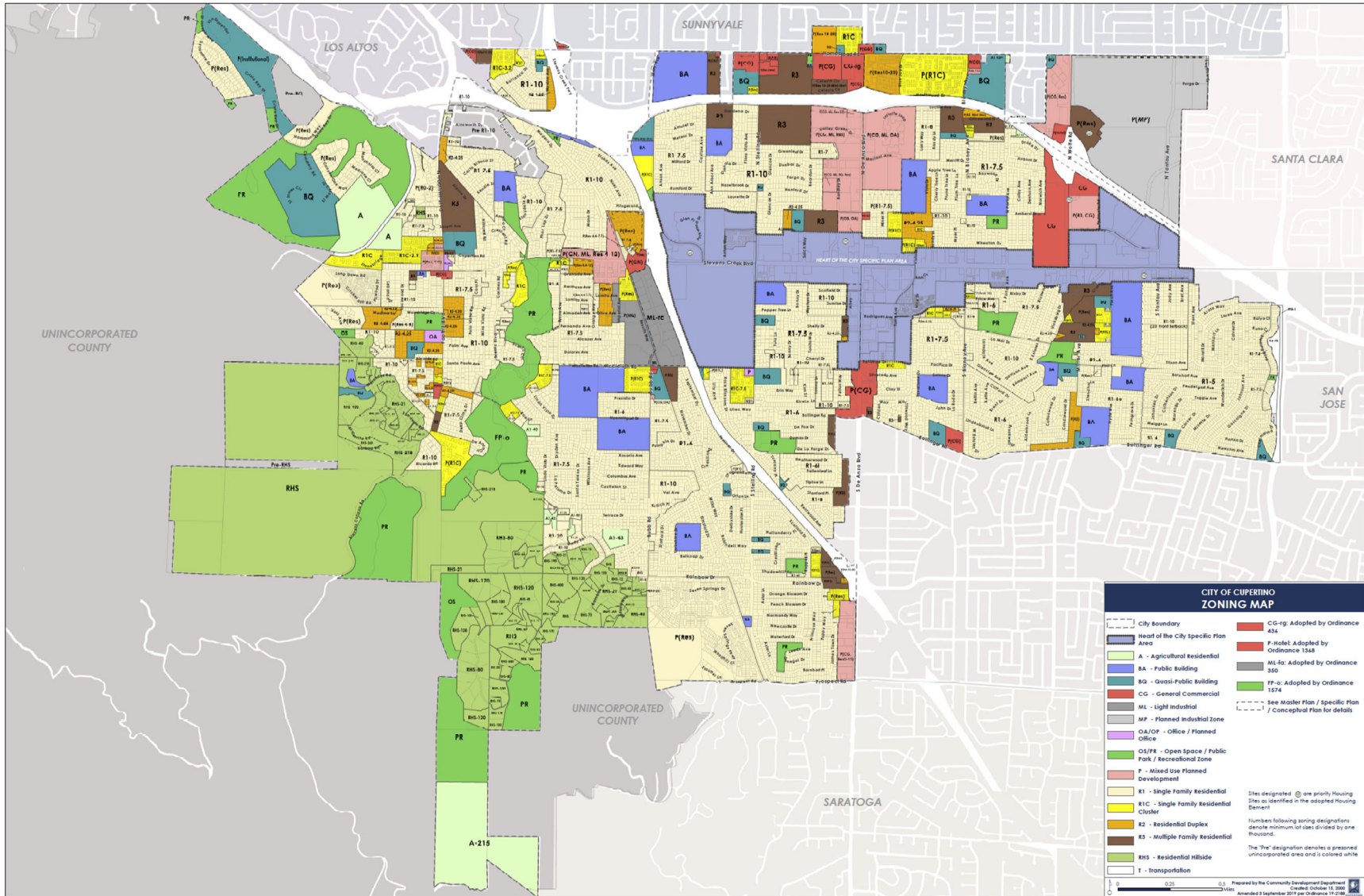
- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

SECTION 3.0 PROPOSED MODIFICATIONS TO THE FINAL EIR PROJECT

The proposed modifications to the Final EIR project are to clarify the development standards applicable in the Planned Development (P) zones. The P zones are located throughout the city. The P zones are enacted to allow flexibility in the development standards through review by the City. However, as clarified in the proposed revisions to the Zoning Code, the development standards for the R-3 (multi-family) zone and the zoning districts referenced in the parenthetical following “P” on the zoning map are intended to apply in this zone in the absence of a conceptual development plan or specific plan for residential or mixed-use projects. A zoning map of the City is shown in Figure 3-1.

The Final EIR analyzed future development in the City in all zoning districts. Much of the City is zoned primarily for single-family or low-density residential uses, with about 70% of the City comprised of single-family development. In 2014 and today, most of the City is already developed, with very few vacant properties. The Final EIR also recognized the significant challenges to redeveloping single family developments with multi-family uses. Therefore, most future development was anticipated to occur on in-fill sites. The overall residential development, analyzed in the Final EIR and certified in 2014, allowed for the development of up to 4,421 residential units at 2040 Build-out, the majority of which were anticipated to be in mixed-use, multi-family residential projects along major corridors within the City.



ZONING MAP

FIGURE 3-1

The City proposes clarifications to the project analyzed in the Final EIR by adopting text amendments to the Zoning Code applicable to the Planned Development zoning districts. Specifically, the proposed amendments:

- Clarify that residential and residential mixed use projects in a P zone must comply with the development standards and regulations for the zoning districts referenced on the zoning map, unless otherwise established in a conceptual development plan, definitive plan, or other zoning plan.
- Clarify that the development standards and regulations for residential development in the absence of standards in other plans are those established for the R-3 (multi-family) zoning district.
- Clarify that, in the absence of standards in other plans, mixed-use residential developments shall comply with standards and regulations of the type of proposed use. I.e., Multi-family (R-3) zoning standards for residential portions of the development, General Commercial (CG) zoning standards for the commercial portion of the development, ML/MP zoning standards, whichever is referenced, for the industrial portion of the development, OA/OP zoning standards, whichever is referenced, for the office portion of the development. Also, clarify that in the event of a conflict between the different zoning standards, the most restrictive standard would apply.
- Other clarifying changes are also proposed.

These changes do not change allowed uses, but clarify development standards that would apply to anticipated uses in the P zones by reference to existing standards for those uses. The analyses in the Final EIR assumed that a majority of new development anticipated in the City would be infill development in mixed-use, multi-family developments as is evidenced in a review of the areas where the residential growth was planned.¹ The Final EIR identified General Plan policies and programmatic mitigation measures to reduce impacts from development of multi-family uses in any of the areas that allow such development. The refinement of the applicable development standards of the allowable uses within the Planned Development zoning districts by the City Council as part of the proposed modifications, therefore, would not change the impacts disclosed in the Final EIR because the analyses evaluates and anticipates such development on these properties. For this reason, the decision by the City Council as to clarify which development standards apply to this zoning district has no effect on the analysis or conclusions in the Final EIR.

SECTION 4.0 ENVIRONMENTAL IMPACTS OF THE PROPOSED MODIFICATIONS TO THE FINAL EIR PROJECT

The following discusses the potential effects on the physical environment from implementing the proposed modifications to the Final EIR project. This analysis has been prepared to determine whether any of the conditions in State CEQA Guidelines Section 15162 (described in Section 2.0 Standards for Preparation of an Addendum, above) would occur as a result of the proposed modifications to the Final EIR project regarding the development standards in the Planned Development Zoning Districts.

4.1 SAME IMPACTS

¹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Response to Comments Document*. SCH# 2014032007. August 28, 2014. Page 3-29.

Like the Final EIR project, the proposed modifications to the Final EIR project would have no impacts to agriculture, forestry, or mineral resources, because those resources are not found within the City of Cupertino. The proposed modifications to the Final EIR project, therefore, would not result in any new or substantially more severe significant impacts to agriculture, forestry, or mineral resources than were analyzed and disclosed in the Final EIR.

The proposed modifications to the Final EIR project do not modify the assumption that infill, mixed-use multi-family development are anticipated within the Special Areas and major corridors. Clarifying the development standards for development within these areas based on existing standards for anticipated uses would not cause a new significant impact or a substantial increase in the severity of the impacts analyzed and disclosed in the Final EIR. For this reason, the proposed modifications to the Final EIR project would result in the same land use impacts as disclosed in the Final EIR, and would not result in any new or substantially more severe significant land use impacts than were analyzed and disclosed in the Final EIR.

The physical condition and characteristics of the properties within the Planned Development Zoning Districts have not substantially changed since the certification of the Final EIR. The urban nature, trees, soil characteristics, seismic potential, and drainage on-site are in the same or similar condition as they were in 2014. The development regulated by the proposed modifications to the Final EIR project would take place in the same areas and result in the same area of ground disturbance as analyzed in the Final EIR. For this reason, the implementation of the proposed modifications would have the same impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

The number of residential units that could be built on these sites would not be impacted with the proposed modifications compared to the project analyzed in the Final EIR. The allowed uses and residential densities remain unchanged and no changes are proposed to the residential development allocation in the General Plan. For this reason, the proposed modifications to the Final EIR project would have the same population and housing impacts as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

Since no changes are proposed to the overall development program analyzed in the Final EIR, there would be no changes to the daily or peak hour trips. For this reason, the proposed modifications to the Final EIR project would not result in new or substantially more severe significant traffic impacts than were analyzed and disclosed in the Final EIR. In addition, there would be no changes to pollutant emissions, noise and vibration, and energy and utility demand compared to the project analyzed in the Final EIR.

The Final EIR project identifies height limitations and includes slope line criteria for development; these standards are not impacted by the proposed amendments. Therefore, implementation of the proposed text amendments in the Municipal Code would not have more impacts to aesthetics, air quality, energy, greenhouse gas emissions, public services, recreation, transportation, and utilities and service systems than were analyzed and disclosed in the Final EIR because the amount of development analyzed remains the same.

To the extent the proposed text amendments would result in reduced amounts of development as compared to the Final EIR, project, the Final EIR evaluated alternatives to the Final EIR project that included reduced amounts of development,² and concluded that these alternatives would result in essentially the same impacts as the Final EIR project.³ Therefore, the proposed modification to the Final EIR project would not result in any new or substantially more severe significant aesthetics, air quality, energy, greenhouse gas emissions, noise and vibration, public services, recreation, transportation, and utilities and service systems impacts than were analyzed and disclosed in the Final EIR.

Table 4-1 summarizes the impacts of the proposed modifications to the Final EIR compared to Final EIR project.

Table 4-1: Comparison of Impacts of the Final EIR Project and Proposed Modifications to the Final EIR Project			
	Compared to Impacts Disclosed in the Final EIR, the Impacts of the Proposed Modifications to the Final EIR Project would be:		
	Same	Lesser	New Significant or More Substantial
Aesthetics	X		
Agricultural and Forestry Resources	X		
Air Quality	X		
Biological Resources	X		
Cultural Resources	X		
Geology, Soils, and Seismicity	X		
Greenhouse Gas Emissions	X		
Hazards and Hazardous Materials	X		
Hydrology and Water Quality	X		
Land Use and Planning	X		
Mineral Resources	X		

² The below table summarizes the citywide development amounts studied as the Final EIR project and alternatives analyzed in the Final EIR. Summary of Citywide Development Studied in the Final EIR.

	Final EIR Project	No Project	Land Use Alternative A	Land Use Alternative B
Office Square Footage	4,040,231	540,231	1,040,231	2,540,231
Commercial Square Footage	1,343,679	701,413	701,413	1,343,679
Hotel Rooms	1,339	339	600	839
Residential Units	4,421	1,895	1,895	3,316

Source: City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 2-5.

³ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 5-5.

Table 4-1: Comparison of Impacts of the Final EIR Project and Proposed Modifications to the Final EIR Project			
	Compared to Impacts Disclosed in the Final EIR, the Impacts of the Proposed Modifications to the Final EIR Project would be:		
	Same	Lesser	New Significant or More Substantial
Noise and Vibration	X		
Population and Housing	X		
Public Services and Recreation	X		
Transportation and Traffic	X		
Utilities and Service Systems	X		

SECTION 5.0 COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTION 15162

5.1 SUBSTANTIAL CHANGES TO THE PROJECT

As described above in Section 4.0 Environmental Impacts of the Proposed Modifications to the Final EIR Project, the proposed modifications would not result in new significant environmental effects beyond those identified in the Final EIR, would not substantially increase the severity of significant environmental effects identified in the Final EIR, and thus would not require major revisions to the Final EIR. The proposed modifications, therefore, are not substantial changes to the project that require major revisions to the Final EIR or a subsequent EIR.

5.2 SUBSTANTIAL CHANGES IN CIRCUMSTANCES

The physical conditions on the sites zoned Planned Development Zoning Districts have not changed substantially since the certification of the Final EIR, although some structures have been improved and others have been demolished. Planned Development Zoning Districts remain primarily developed, with somewhat limited opportunities for in-fill development or redevelopment. Clarifying the applicable development standards for some of these modified sites will not result in a new significant environmental effect or a substantial increase in the severity of environmental effects identified in the Final EIR. The Final EIR already evaluated the potential impacts associated with in-fill development and redevelopment using established development standards. Therefore, major revisions to the Final EIR or a subsequent EIR are not required.

5.3 NEW INFORMATION

No new information of substantial importance, which was not known and could not have been known when the Final EIR was certified, has been identified which shows that the proposed modifications to the Final EIR project would be expected to result in: 1) new significant environmental effects not identified in the Final EIR; 2) substantially more severe environmental effects than shown in the Final EIR; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the Final EIR would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative.

In addition, as discussed in Section 3.0 Environmental Impacts of the Proposed Modifications to the Final EIR Project, the proposed modifications would result in the same or lesser impacts than were analyzed and disclosed in the Final EIR. For this reason, the proposed modifications to the Final EIR project would not require new mitigation measures because no new or substantially more severe significant environmental effects are expected beyond those identified in the Final EIR would occur.

SECTION 6.0 CONCLUSION

For the reasons stated above, and based on the analysis in the Final EIR and the existing conditions in the Planned Development Zoning Districts, the City has concluded that the proposed

modifications would not result in any new impacts not previously identified in the Final EIR; nor would it result in a substantial increase in the severity of any significant environmental impact previously identified in the EIR. For these reasons, a subsequent EIR is not required and an addendum to the Final EIR is the appropriate CEQA document to address the proposed modifications to the Final EIR project.



CITY OF CUPERTINO

Legislation Text

File #: 19-6405, **Version:** 1

Subject: Municipal Code Amendments to Chapter 13.08 (Park Land Dedication and Fee) and Chapter 18.24 (Dedications and Reservations) to Clarify Park Land Dedication and In Lieu Fee Requirements; Adoption of the Fourth Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt From CEQA.

That the City Council conduct the first reading of Ordinance No. 19-2192: "An Ordinance of the City Council of the City of Cupertino Adopting the Fourth Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 13.08 and Chapter 18.24 of the Municipal Code to Clarify Standards for Park Land Dedications and Fees In lieu Thereof."



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 3, 2019

Subject

Municipal Code Amendments to Chapter 13.08 (Park Land Dedication and Fee) and Chapter 18.24 (Dedications and Reservations) to Clarify Park Land Dedication and In Lieu Fee Requirements; Adoption of the Fourth Addendum to the 2014 General Plan Final EIR; and Finding the Actions Are Not a Project Under and Exempt From CEQA.

Recommended Action

That the City Council conduct the first reading of the Draft Ordinance: "An Ordinance of the City Council of the City of Cupertino Adopting the Fourth Addendum to the 2014 General Plan Final EIR and Amendments to Chapter 13.08 and Chapter 18.24 of the Municipal Code to Clarify Standards for Park Land Dedications and Fees In lieu Thereof." (Attachment A).

Discussion

Background

The FY2019/20 City Council Work Program directs the City to clarify objective standards within the City's General Plan and Municipal Code. The Planning Commission and City Council reviewed areas that were identified by staff as needing clarity through Summer and Fall 2019. At the Planning Commission and City Council Study Sessions, Commissioners and Councilmembers recommended express standards for Park Land Dedications, in particular to have park land dedications situated at ground level. At the October 1, 2019 City Council meeting, the Council authorized staff to commence with amendments identified in Phase 1 and suggested that staff proceed with any readily feasible amendments listed in Phase 1.5. Staff has determined that the City can readily make the Municipal Code amendments being proposed with this draft Ordinance.

Analysis

Attachment B shows a redlined version of the Municipal Code amendments being proposed. The proposed amendments can be categorized into the following three areas:

- A. Standards related to dedicated park land;
- B. Conformance with State Law (Subdivision Map/Quimby Act); and
- C. Other minor clarifications and clean up.

These amendments are further discussed below.

A. Standards related to dedicated park land

Chapter 13.08 would be updated to clarify park land dedication standards including:

1. Adding a definition of park land dedication which specifies that park land must be situated at ground level and dedicated to the City in fee simple ownership.
2. Specifying the following requirements for land to satisfy the park land dedication requirement:
 - a. Located at ground level and dedicated to the City in fee simple ownership.
 - b. Have at least one contiguous piece of land of at least 0.27 acres, excluding any hillsides over ten percent slope, not be located in riparian setback areas and environmental mitigation areas.
 - c. At least 0.25 acres of the dedicated land be gradable to create a flat area of less than five percent slope in any direction.
 - d. All dedications shall be at least 50 feet wide and 0.10 acres in contiguous size. This standards is intended to ensure all dedicated land is usable for parks, while also facilitating the provision of pocket parks in park-poor areas of the City.
 - e. Be located adjacent to a street to promote public safety and facilitate policing.
 - f. Not include setback areas, private yards, and open areas required by zoning and/or building code or for streets and improvements that do not serve the park exclusively.
3. Clarifies factors for the City to consider in determining whether parkland dedication, in lieu fees, or a combination of both are required, including, but not limited to, adequacy of existing parkland in the surrounding area pursuant to the General Plan Recreation Parks and Community Services Element policies for distributing parks and open space throughout the community. A copy of these General Plan policies is included as Attachment D.

B. Conformance with State Law

Proposed modifications work to better align sections of the Municipal Code with the California Subdivision Map Act and Quimby Act. These include:

1. Clarifications to exceptions and credits in Chapters 13.08 and 18.24.
2. Clarifying that a credit is provided to the developer for the value of any improvements installed by the Developer in a dedicated park as required by law.

C. Other modifications and clean up

Other modifications and clean up include:

- Adding a definition of “senior citizen housing developments” to ensure consistent application of the term.

- Clarifies that addressing increased demands for parks is a requirement for all developments (subject to exceptions and waivers).
- Consolidating existing exceptions and credits into one section “Exceptions and Credits” for ease of applicability. In addition to this section, the City will continue to offer a range of incentives to facilitate the development of affordable housing including waiver of park dedication fees consistent with the City’s adopted Housing Element and Below Market Rate Housing Mitigation Manual.
- Clarifications to the formulas used for calculating the park land dedication acreage, as well as in lieu fees. The clarifications are consistent with the City’s existing formula and practice and do not change the amount of acreage or fees required.
- Clarifies that if a credit is given for private open space, the open space must be accessible to all residents in a development.
- Specifies that setbacks and other required open spaces shall not be counted towards private open space credits and makes other minor clarifications to private open space requirements.
- Requires open space covenants for private parks to be approved as to form by the City Attorney.
- Codifies existing code interpretation and practice that credit is only given for existing dwelling units in a project, when those dwelling units have already contributed towards parkland dedications or paid fees in lieu thereof.
- Modifications to align timing of dedication requirements with existing practices in Chapters 13.08 and 18.24 by clarifying that parkland dedication and/or fees are to be paid upon issuance of a final map or building permits, whichever is earlier.
- Modifications to Chapter 18.24 regarding dedications and reservation for subdivisions to reference and be consistent with Chapter 13.08 and its standards and procedures for parkland dedication requirements, where possible for internal consistency.

Planning Commission Review

A preliminary draft of the proposed amendments was presented to the Planning Commission at a Study Session at its November 12, 2019 meeting, which included amendments to Chapters 13.08, 14.05 and 18.24. Since then, the amendments have been modified to no longer include any amendments to Chapter 14.05 or substantive changes to calculation of parkland dedication acreage and in lieu fees. Those potential changes can be studied and considered in later phases.

The Commission reviewed the proposed amendments, received public comments, and provided input. The main comments from Commissioners are summarized below.

1. Consider reducing the parkland dedication credit provided to developers for the creation of significant private open space from a 50% credit to a 25% credit. *Staff comment: Staff is not proposing amendments related to private open space credits at this time, but can consider amendments in future phases. For Council’s information, the following chart summarizes the credit provided for private open space in other cities.*

Jurisdictional Agency	Credit Provided for Private Open Space
San Jose	50%
Mountain View	50%
Santa Clara	50%
Saratoga	50%

Palo Alto, Sunnyvale, and Los Altos do not have express credits for private open space in their codes.

2. Consider minimum size and dimension requirements. *Staff comment: This has now been addressed in additions to the proposed amendments.*
3. Commissioners had different views on whether to refer to the federal census data for average household size and eliminate the specifications by density in Table 13.08.050 (Park Land Dedication Formula Table) or retain the existing table. One Commissioner suggested further study, including studies of other cities and a new study to determine the average household size. *Staff comment: Staff was initially considering an amendment to refer to recent Federal census data to determine average household size for purposes of calculating park land dedication requirements. However, staff is not proposing to move forward with substantive amendments to these calculations at this time. If desired, Council could consider a separate project for a future Work Program to prepare a study of average household sizes for further amendments to Chapter 13.08.*

After the meeting, Chair Wang submitted the following additional comments:

4. Have in lieu of fees as the purview of City Council and they are the discretionary approval body. *Staff comment: Section 13.08.100 already provides that the approval authority determines whether parkland dedication or in lieu fees is required. Thus when City Council approval for a project is required, they will make the determination.*
5. The Quimby Act does not apply until late 2021. *Staff comment: The Quimby Act is currently in effect and as a state law the City is required to follow it.*

The main comments from the public are summarized below:

6. Consider requiring that covenants be reviewed and approved by the City Attorney prior to recordation. *Staff comment: This has been incorporated.*
7. Consider disallowing any occupancy, including temporary occupancy, prior to recordation of covenants and/or recordation of grant deeds for private park open space. *Staff comment: The Code amendments would require recordation of open space covenants for private park open space prior to final occupancy (as opposed to the current requirement of recordation simultaneously with final occupancy). Prohibiting all occupancy before recordation of covenants and grant deeds may impose unnecessary burdens on project implementation. Temporary occupancy is at times issued to facilitate internal improvements by tenants prior to final occupancy. These tenant improvements can take some time and often occur simultaneously with construction of park improvements.*

Environmental Assessment

In 2014, the City Council certified a Final Environmental Impact Report (EIR) for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project (State Clearinghouse No. 2014032007), which was a program EIR prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The Final EIR analyzed land use alternatives that included citywide development allocations (as well as building heights and densities) in connection with the adoption of the Cupertino Community Vision 2015-2040 (General Plan). The General Plan and Associated Rezoning were adopted in December 2014, the Housing Element Update was adopted in May 2015, and modifications to the text and figures of the General Plan adopted in 2015 and 2019 following adoption of Addenda to the EIR.

When a lead agency has certified an EIR, Public Resources Code Section 21166 and CEQA Guidelines 15162 provide that no subsequent environmental review shall be required unless specified conditions have occurred (substantial changes in the project, substantial changes with respect to the circumstances under which the project is undertaken, or new information of substantial importance which was not known and could not have been known when the EIR was certified) and would result in new significant environmental effects or a substantial increase in the severity of significant environmental effects requiring major revisions to the EIR. CEQA Guidelines Section 15164 further states that if some changes or additions to a previously certified EIR are needed, but subsequent review is not required under CEQA Guidelines 15162, an addendum shall be prepared.

The City has prepared a Fourth Addendum to the Final EIR to evaluate whether the proposed modifications to the Municipal Code described in this Staff Report would require major revisions to the Final EIR or a subsequent EIR due to new significant environmental effects or a substantial increase in the severity of significant environmental effects previously identified in the EIR. The Fourth Addendum, which is included as Attachment C, provides analysis and cites substantial evidence in support of the conclusion that no subsequent environmental review is required because none of the conditions that would require preparation of a subsequent EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred.

Therefore, it is recommended that the City Council adopt the Fourth Addendum, and no further environmental review is required for the modifications described in this Staff Report.

In the alternative, adopting the proposed amendments to the Municipal Code is not a project under the requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that the Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a

significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, compliance with the City's Municipal Code, including the park land dedication requirements in Chapters 13.08 and 18.24 as amended will continue to ensure that adequate parklands and recreational facilities are provided to reduce the cumulative impacts of residential development in the City. Authorizing these amendments would have no or only a de minimis effect on the environment because the amendments help reduce the environmental effects of land use projects and they do not change the amount of development allowed under the City's General Plan and Zoning Ordinance.

Other Determinations

The amendments implement and are consistent with the City's General Plan and the Recreation Parks and Community Services Element.

City staff have reviewed the proposed amendments and have determined that the clarified standards do not exceed the standards and criteria being applied by the City to its publicly financed parks, including because no city parks are above ground level.

In addition, the amendments will not impede the ability to develop the City's Regional Housing Needs Allocation or housing for all income levels as anticipated by the City's Housing Element. The proposed amendments are consistent with the City's Housing Element. The amendments retain the ability to pay fees in lieu of park land dedication. Further, the City will continue to offer a range of incentives to facilitate the development of affordable housing including waiver of park land dedication fees consistent with the City's adopted Housing Element and Below Market Rate Housing Mitigation Manual. The City will thus continue to be able to address the housing needs of the region.

Sustainability Impact

No sustainability impact. Park land dedication requirements are retained and clarified.

Fiscal Impact

No fiscal impact. Fees are not being adjusted from existing calculations.

Prepared by: Chad Mosley, Assistant Public Works Director/City Engineer

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A – Draft Ordinance

B – Redline Municipal Code amendments

C – Fourth Addendum to the Final EIR

D – General Plan Parkland Distribution Goal and Policies

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADOPTING THE FOURTH ADDENDUM TO THE 2014 GENERAL PLAN
FINAL EIR AND AMENDMENTS TO CHAPTER 13.08 AND CHAPTER 18.24
OF THE MUNICIPAL CODE TO CLARIFY STANDARDS FOR PARK LAND
DEDICATIONS AND FEES IN LIEU THEREOF

SECTION I: PROJECT DESCRIPTION

Application No: MCA-2019-006
Applicant: City of Cupertino
Location: Citywide

SECTION II: RECITALS

WHEREAS, the City Council FY2019/2020 Work Program directs the City to clarify objective standards within the City's General Plan and Municipal Code; and

WHEREAS, at the September 18 and October 1, 2019 City Council meetings, the City Council reviewed areas that were identified by staff, the Planning Commission, and members of the public as desiring clarity, including standards related to park land dedication, in particular to have park land dedications situated at ground level, and Council authorized staff to commence with amendments identified in Phase 1 and any readily feasible amendments in Phase 1.5; and

WHEREAS, the Ordinance amends the City's Municipal Code to clarify the standards to be applied to required park land dedications and payment of fees in lieu thereof; and

WHEREAS, the Ordinance is consistent with the City's General Plan and the public health, safety, convenience, and general welfare, and the amendments herein implement the City's General Plan (Community Vision 2015-2040); and

WHEREAS, the proposed modifications will not result in any of the conditions requiring preparation of a subsequent EIR as described in Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, the City has prepared a Fourth Addendum ("Fourth Addendum") to the Final Environmental Impact Report ("Final EIR") for the General Plan Amendment, Housing Element Update, and Associated Rezoning Project (State Clearinghouse No. 2014032007) for modifications to the Municipal Code related to clarifying standards for park land dedication requirements in compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"); and

WHEREAS, the Fourth Addendum provides analysis and cites substantial evidence that supports the conclusion that no subsequent environmental review is required because there are no substantial changes in the Project or the circumstances under which the Project is to be undertaken that would result in new or substantially more severe environmental impacts requiring major revisions to the Final EIR, and there is no new information that involves new significant environmental effects or a substantial increase in the severity of previously identified environmental effects that would require preparation of a subsequent EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162; and

WHEREAS, In the alternative, adopting the proposed amendments to the Municipal Code is not a project under the requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that the Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, compliance with the City's Municipal Code, including the park land dedication requirements in Chapters 13.08 and 18.24 as amended will continue to ensure that adequate parklands and recreational facilities are provided to reduce the cumulative impacts of residential development in the City. Authorizing these amendments would have no or only a de minimis effect on the environment because the amendments help reduce the environmental effects of land use projects and they do not change the amount of development allowed under the City's General Plan and Zoning Ordinance; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission reviewed the proposed amendments and provided comments at a study session on November 12, 2019; and

WHEREAS, on November 12, 2019, the Fourth Addendum was also presented to the Planning Commission at the study session; and

WHEREAS, on December 3, 2019, upon due notice, the City Council has held at least one public hearing to consider the Municipal Code amendments; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance; and

WHEREAS, prior to taking action on this Ordinance, the City Council has exercised its independent judgment and reviewed and considered the information in the Fourth Addendum, which concludes that no further environmental review is required for the Municipal Code Amendments included in the Ordinance.

SECTION III

NOW, THEREFORE, BE IT ORDAINED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby takes the following actions:

Section 1.

- A. Finds that the recitals set forth above are true and correct, and are incorporated herein.
- B. Determines that the Fourth Addendum reflects the independent judgment of the City.
- C. Adopts the Fourth Addendum to the Final EIR for the modifications to the Municipal Code Titles 13 and 18 related to park land dedication requirements.
- D. In the alternative, finds that adopting the Ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that the Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

Section 2. The City Council further finds that:

- A. The Municipal Code amendments adopted by this Ordinance implement and are consistent with the City's General Plan and the Recreation Parks and Community Services Element.
- B. The clarified standards for parkland dedications do not exceed the standards and criteria being applied by the City to its publicly financed parks, including because no City parks are above ground level.
- C. The amendments will not impede the ability to develop the City's Regional Housing Needs Allocation or housing for all income levels as anticipated by the City's Housing Element. The amendments are consistent with the City's Housing Element and they retain the ability to pay fees in lieu of park land dedication. Further, the City will

continue to offer a range of incentives to facilitate the development of affordable housing including waiver of park land dedication fees consistent with the City's adopted Housing Element and Below Market Rate Housing Mitigation Manual. The City will thus continue to be able to address the housing needs of the region.

Section 3. The City Council approves the Amendments to the Municipal Code as shown in Exhibit A attached hereto and incorporated herein by reference and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published Municipal Code.

Section 4. If any portion of this Ordinance or its application 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 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.

Section 5. The City Clerk shall give notice of adoption of this Ordinance as required by law.

Section 6. This Ordinance shall take effect 30 days after the second reading of the ordinance.

INTRODUCED at a regular meeting of the City Council of the City of Cupertino the 3rd day of December, 2019 and ENACTED at a regular meeting of the City Council of the City of Cupertino the ____ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED: _____ _____, Mayor City of Cupertino	_____ Date
ATTEST: _____ Grace Schmidt, City Clerk	_____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	_____ Date

EXHIBIT A

SECTION 1. Chapter 13.08, of Title 13 of the Cupertino Municipal Code is hereby amended to read as follows:

CHAPTER 13.08: PARK LAND DEDICATION FEE

Section

- 13.08.010 Purpose.
- 13.08.020 Definitions.
- 13.08.030 Applicability.
- 13.08.040 Exceptions and Credits.
- 13.08.050 Park land dedication.
- 13.08.060 Fees in lieu of park land dedication.
- 13.08.070 Combination of park land dedication and fee.
- 13.08.080 Credit for private recreation or open space.
- 13.08.090 Credit for existing dwelling units.
- 13.08.100 General procedures.

13.08.010 Purpose.

The purpose of this Chapter is to regulate, in the public interest, convenience, health, welfare and safety, the provision of park and recreational facilities upon development for which dedication of land and/or payment of a fee is required in accordance with the recreation, parks and community services element of the adopted General Plan of the City of Cupertino, and any amendments.

13.08.020 Definitions.

"Dwelling unit" or "unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

"Park land dedication" means land located at ground level, dedicated to the city, in fee simple ownership, to the center of the earth.

"Senior citizen housing development" means a development as defined in Civil Code Section 51.3 or as defined in Civil Code Section 798.76 or 799.5.

13.08.030 Applicability.

Developments of new dwelling units must address the increased demands for parks through a park land dedication, a payment of a fee in lieu thereof, or a combination of both, at the time and according to the standards and formula provided in this Chapter 13.08. The City has the discretion to determine which of the three options above shall be required.

13.08.040 Exceptions and Credits.

A. The requirements in this chapter shall not apply to the following developments:

1. Subdivisions exempt from park land dedication requirements pursuant to Government Code Section 66477

B. A credit to the park land dedication or in-lieu fee requirements may be granted by the approval authority as follows:

1. Senior citizen housing development shall be granted a credit pursuant to Section 13.08.050.

2. Developments that include private recreation or open space shall be granted a credit pursuant to Section 13.08.080.

3. Developments including existing dwelling units may be granted credit pursuant to Section 13.08.090.

13.08.050 Park Land Dedication.

A. Where dedication of a park or recreational facility is required pursuant to this Chapter, land shall be dedicated per the formula below.

Park Land Dedication (in acres) = $(Average\ number\ of\ persons/ DU) \times (Park\ Acreage\ Standard) \times (Number\ of\ Dwelling\ Units)$

B. The Park Acreage Standard is three acres of property for each one thousand persons.

C. Park land dedication based on development density: Table 13.08.050 indicates the average park land dedication required per dwelling unit based on development density per the formula above (Section 13.08.050.A).

D. Average number of persons/DU shall be determined pursuant to Table 13.08.050.

E. The number of dwelling units is calculated consistent with Section 13.08.090.

F. Standards for dedicated land: To satisfy this dedication requirement, the park land must be:

1. Located at ground level and dedicated to the City in fee simple ownership, to the center of the earth;
2. At least one contiguous piece of land of at least 0.27 acres in size, excluding hillsides over a ten (10) percent slope, riparian set back areas and environmental mitigation areas;
3. At least 0.25 acres of the dedicated land must be gradable to create a flat area of less than five (5) percent slope in any direction;
4. All dedicated land must be at least 50 feet wide and 0.10 acres in contiguous size. The City Council may waive this requirement when doing so facilitates the provision of pocket parks or other desirable park amenities.
5. Located adjacent to a street in order to promote public safety and facilitate policing; and
6. Setback areas, private yards, and other open areas required by zoning and/or building ordinances or for streets and improvements that do not serve the park exclusively, shall not be included in the computation of dedicated park or recreational acreage.

Table 13.08.050: Park Land Dedication Formula Table

Density (DU/acre)	Average number of persons/DU	Average Park Land Dedication/ DU (in acres)
0 - 5	3.5	.0105
5 - 10	2.0	.0060
10 - 20	2.0	.0060
20+	1.8	.0054
10+	1.8	.0054
Senior Citizen Housing Development	1.0	.0030

13.08.060 Fees in Lieu of Park Land Dedication.

A. General Standard.

1. A fee in lieu of park land dedication shall be required pursuant to the requirements of this Chapter.
2. Subdivisions containing fifty units or less shall pay a fee in lieu of park land dedication except as provided in the Govt. Code Section 66477(a).

B. Amount. The amount of the fee shall be equal to the fair market value of the land prescribed for dedication pursuant to Section 13.08.050. The fee shall be calculated as follows:

In lieu fee = *Park land Dedication (in acres)*¹ x (*Fair Market Value of land per acre*)

¹ Calculated pursuant to Section 13.08.050.

C. Fair Market Value of land per acre. The Director of Public Works shall establish the fair market value of land within the City and update the value on an annual basis in the City's Fee Schedule. The fair market value shall be determined by reference to comparable land within the City. As used herein, the term "comparable" means land of similar size and development potential as the land which would otherwise be dedicated.

D. Use of Money. The money collected shall be paid to the Treasurer of the City or his or her authorized agent. Such money shall be placed in a special revenue fund which shall be known as the "park dedication in-lieu fee fund" and shall be used for all purposes allowed by State Law.

13.08.070 Combination of Park Land Dedication and Fee.

A. The City shall determine whether it accepts park land dedication, elects to require payment of a fee in lieu, or a combination of both a park land dedication and a fee in lieu, upon consideration of the public interest, convenience, health, welfare, and safety, including, but not limited to, the following:

1. Topography, geology, access and location of land in the development available for dedication;
2. Size and shape of the development and land available for dedication;
3. Feasibility of dedication;
4. Adequacy of existing park land in the surrounding area pursuant to the Recreation, Parks And Community Services Element policies of the General Plan;
5. The number of parcels or units in the development.

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

13.08.080 Credit for Private Recreation or Open Space.

A. Where private open space for park and recreational purposes, accessible to all residents in a development, is provided in a proposed development, fifty percent credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, if the approval authority finds that it is in the public interest to do so and that all

the standards in Section 13.08.080B, below are met and findings in Section 13.08.080C can be made.

B. That the open space for which credit is given complies with the following standards:

1. Setback areas, private yards, and other open areas required by zoning and/or building ordinances or for streets and improvements that do not serve the park exclusively, shall not be included in the computation of such private open space.

2. The total usable open space acreage for the development must be equivalent to the park land dedication calculated pursuant to Section 13.08.050.

3. The open space must contain the mandatory elements and at least four of the six optional elements indicated in Table 13.08.080 below and meet the following criteria:

a. The combined minimum acreage for a facility with a recreation center and children's play apparatus area is 1.3 acres.

b. The minimum combined acreage for a facility not including a recreation center or children's play area is 1.5 acres.

Table 13.08.080 - Mandatory and Optional Elements for private open space

Mandatory Element	Minimum Acreage
Turfed playfield The playfield shall be a single unit of land which is generally level and free of physical barriers which would inhibit group play activities.	0.50
Optional Elements	
Children's play apparatus area	0.15
Recreational community gardens	0.25
Family picnic area	0.25
Game, fitness or sport court area	0.25
Accessible swimming pool (42' x 75' with adjacent deck and lawn areas)	0.25
Recreation center buildings and grounds	0.15

C. The approval authority may grant park credit for a combination of the above elements or a combination of the above elements and other recreation improvements that will meet the specific recreation needs of a specialized housing development, such as a senior housing development, with occupancy controlled via a covenant with the City named as a third party beneficiary.

D. Findings. The approval authority shall adopt the following written findings and shall require the recordation of covenants running with the land to ensure that credited elements are maintained, before credit is given:

1. That yards, court areas, setbacks, decorative landscape areas normally associated with residential site design and other areas required to remain free and clear by zoning and building ordinances and regulations shall not be included in the computation of such private open space;

2. That such space is to be wholly or partially owned and maintained by the future residents of the development and that the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance or restrictions;

3. That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be eliminated without the consent of the City or its successor;

4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

5. That the facilities proposed for private recreation or open space are in substantial conformance with General Plan policies.

13.08.090 Credit for Existing Dwelling Units.

When dwelling units exist on the property where development is proposed, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for the number of units existing. As used herein, the term "existing" refers to units which exist at the time of approval of the dwelling units or which were demolished within one year prior to the submittal of an application for development of the dwelling units, for which previously park land dedication or fees in lieu thereof have been collected. For credits applicable to existing units included in proposed subdivisions, see section 18.24.110.

13.08.100 General Procedures

A. At the time of approval of the dwelling units, the approval authority shall determine whether a park land dedication, a fee in lieu thereof, or a combination of both, is required unless a park land dedication or fee has already been provided.

B. At the time of building permit issuance or recordation of a final subdivision map, whichever is earliest, park land shall be dedicated to the City or the fee in lieu thereof shall be paid.

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the building permits, approved as to form by the City Attorney, and shall be recorded prior to final occupancy.

D. The City will provide a credit to the Developer for the value of any improvements installed by the Developer. This credit shall include a reduction in the amount of land dedicated or fees in-lieu thereof. Improvements and installations performed by the developer for which credits are given must be designed and constructed prior to occupancy of the development.

SECTION 2. Chapter 18.24, of Title 18 of the Cupertino Municipal Code is hereby amended to read as follows:

18.24.020 Purpose.

This section is enacted pursuant to the authority granted by the Government Code. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the open space and conservation element of the adopted General Plan of the City of Cupertino, and any amendments.

18.24.030 Requirements.

A. As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or a combination of both for park or recreational purposes at the time and according to the standards and formula contained in Chapter 13.08. The City has the discretion to determine which of the three options shall be required.

B. The provisions of this chapter are not applicable to the following land use categories:

1. Commercial or industrial subdivisions;
2. Condominium conversion projects or stock cooperatives which consist of the subdivision of air space in an existing apartment building which is more than five years old when no new dwelling units are added;
3. Convalescent hospitals and similar dependent care facilities; and
4. Subdivisions containing less than five parcels and not used for residential purposes.

18.24.040 General Standard.

The Park Land Dedication shall be as identified in the City's General Plan and Chapter 13.08.

18.24.050 Dedication of Land.

A. Where dedication of land is required, the subdivider shall dedicate park land in compliance with the formula set out in Section 13.08.050.

18.24.060 Fees in Lieu of Land Dedication.

A. Fees in Lieu of Land Required. Where fees in lieu of park land are required, the subdivider shall pay such fees in compliance with Section 13.08.060.

18.24.070 Criteria for Requiring Both Dedication and Fee.

The criteria for requiring subdividers to dedicate land and pay a fee in lieu thereof is set forth in Section 13.08.070 and Section 18.24.090.

18.24.080 Subdividers not within General Plan.

Where the proposed subdivision lies within an area not included but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu, or a combination of both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this chapter.

18.24.090 Determination of Land or Fee.

A. In addition to the standards identified in Section 13.08.070 for whether the City shall accept land dedication or elect to require payment of a fee, for subdivisions containing fifty parcels or more, or for a condominium project, stock cooperative, or community apartment project exceeding 50 dwelling units, the City shall also consider the policies contained in the Recreation, Parks, and Community Services element of the City's General Plan.

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

18.24.100 Credit for Private Recreation or Open Space.

Where private open space for park and recreational purposes is provided in a proposed subdivision, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, pursuant to requirements of Section 13.08.080.

18.24.110 Credit for Existing Residential Units.

Where any proposed subdivision contains existing residential units, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for each lot which contains residential unit or units. As used herein, the term "existing" refers to a residential unit or units which exist at the time of the recordation of a final map or which were demolished within one year prior of the tentative map application, for which previously park land dedication or fees in lieu of have been collected.

18.24.120 Procedure.

A. At the time of approval of the tentative subdivision map, the City Council shall determine whether land is to be dedicated and/or fees to be paid, or a combination of both, by the subdivider pursuant to Chapter 13.08.

B. At the time of the filing of the final subdivision map, the subdivider shall dedicate the land and/or pay the fees.

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded simultaneously with the final subdivision map.

D. The City will provide a credit to the Developer for the value of any improvements installed by the Developer. This credit shall include a reduction in the amount of land dedicated or fees in-lieu thereof. Improvements and installations performed by the developer for which credits are given must be designed and constructed prior to occupancy of the development.

18.24.130 Commencement of Development.

At the time of approval of the final subdivision map, the City Council shall specify when development of the park or recreational facilities shall be commenced.

CHAPTER 13.08: PARK LAND DEDICATION FEE

Section

- 13.08.010 Purpose.
- 13.08.020 Definitions.
- 13.08.030 Applicability.
- 13.08.040 ~~Reserved~~Exceptions and Credits.
- 13.08.050 Park land dedication.
- 13.08.060 Fees in lieu of park land dedication.
- 13.08.070 Combination of park land dedication and fee.
- 13.08.080 Credit for private recreation or open space.
- 13.08.090 Credit for existing dwelling units.
- 13.08.100 General procedures.

13.08.010 Purpose.

The purpose of this Chapter is to regulate, in the public interest, convenience, health, welfare and safety, the provision of park and recreational facilities upon development for which dedication of land and/or payment of a fee is required in accordance with the ~~open space and conservation~~ recreation, parks and community services element of the adopted General Plan of the City of Cupertino, and any amendments.

Update

13.08.020 Definitions.

"Dwelling unit" or "unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

"Park land dedication" means land located at ground level, dedicated to the city, in fee simple ownership, to the center of the earth.

"Senior citizen housing development" means a development as defined in Civil Code Section 51.3 or as defined in Civil Code Section 798.76 or 799.5.

Clarifications/standards

13.08.030 Applicability.

~~Upon development of a new dwelling units~~ Developments of a new dwelling units must address the increased demands for parks through, at the option of the City, a park land dedication, or a payment of a fee in lieu thereof, or a combination of both, at the time and according to the standards and formula provided in this Chapter 13.08. The City has the discretion to determine which of the three options above shall be required.

Clarifications

13.08.040 ~~Reserved~~ Exceptions and Credits.

A. The requirements in this chapter shall not apply to the following developments:

1. Subdivisions exempt from park land dedication requirements pursuant to Government Code Section 66477

B. A credit to the park land dedication or in-lieu fee requirements may be granted by the approval authority as follows:

1. Senior citizen housing development shall be granted a credit pursuant to Section 13.08.050.

2. Developments that include private recreation or open space shall be granted a credit pursuant to Section 13.08.080.

3. Developments including existing dwelling units may be granted credit pursuant to Section 13.08.090.

Conformance
with State Law

Clarifications

13.08.050 Park Land Dedication.

A. Where ~~the City determines that dedication of~~ a park or recreational facility is ~~required pursuant to this Chapter be located in whole or in part within the proposed development,~~ land ~~sufficient in topography and size~~ shall be dedicated per the formula below.

$$\text{Park Land Dedication/} \underline{\text{Du (in acres)}} = (\text{Average number of persons/} \underline{\text{DU}}) \times (\text{Park Acreage Standard}) / \underline{1000 \text{ persons}} \times (\text{Number of Dwelling Units})$$

B. The Park Acreage Standard is three acres of property for each one thousand persons.

C. Park land dedication based on development density: Table 13.08.050 indicates the average park land dedication required per dwelling unit based on development density per the formula above (Section 13.08.050.A).

D. Average number of persons/DU shall be determined pursuant to Table 13.08.050.

E. The number of dwelling units is calculated consistent with Section 13.08.090.

F. Standards for dedicated land: To satisfy this dedication requirement, the park land must be:

1. Located at ground level and dedicated to the City in fee simple ownership, to the center of the earth;

2. At least one contiguous piece of land of at least 0.27 acres in size, excluding hillsides over a ten (10) percent slope, riparian set back areas and environmental mitigation areas;

Clarifications

Clarifications

Standards for
Park Land

3. At least 0.25 acres of the dedicated land must be gradable to create a flat area of less than five (5) percent slope in any direction;

4. All dedicated land must be at least 50 feet wide and 0.10 acres in contiguous size. The City Council may waive this requirement when doing so facilitates the provision of pocket parks or other desirable park amenities.

5. Located adjacent to a street in order to promote public safety and facilitate policing; and

6. Setback areas, private yards, and other open areas required by zoning and/or building ordinances or for streets and improvements that do not serve the park exclusively, shall not be included in the computation of dedicated park or recreational acreage.

Table 13.08.050: Park Land Dedication Formula Table

Density (DU/acre)	Average number of persons/DU	Average Park Land Dedication/ DU (in acres)
0 - 5	3.5	.0105
5 - 10	2.0	.0060
10 - 20	2.0	.0060
20+	1.8	.0054
10+	1.8	.0054
Senior Citizen Housing Development	1.0	.0030

13.08.060 Fees in Lieu of Park Land Dedication.

A. General Standard.

~~1. If the City determines that a park land dedication is not required, a~~ fee shall be paid in lieu thereof park land dedication shall be required pursuant to the requirements of this Chapter.

~~2. Fees in Lieu of Land. If a proposed development contains~~Subdivisions containing fifty units or less, a fee in lieu of park land dedication shall be paidpay a fee in lieu of park land dedication except as provided in the Govt. Code Section 66477(a), unless dedication is deemed appropriate and in the public interest by.

B. Amount. The amount of the fee shall be equal to the fair market value of the land prescribed for dedication pursuant to Section 13.08.050. The fee shall be calculated as follows:

In lieu fee = ~~((Average Park land Dedication/ DU)*(Net new dwelling units)*(in acres)¹ x (Fair Market Value of land/ per acre)~~

¹ Calculated pursuant to Section 13.08.050.

C. Fair Market Value of land per acre. The ~~Department~~Director of Public Works shall establish the fair market value of land within the City and update the value on an annual basis in the City's Fee Schedule. The fair market value shall be determined by reference to comparable land within the City. As used herein, the term "comparable" means land of similar size and development potential as the land which would otherwise be dedicated.

D. Use of Money. The money collected shall be paid to the Treasurer of the City or his or her authorized agent. Such money shall be placed in a special revenue fund which shall be known as the "park dedication in-lieu fee fund" and shall be used for all purposes allowed by State Law.

13.08.070 Combination of Park Land Dedication and Fee.

A. The City shall determine whether it accepts park land dedication, elects to require payment of a fee in lieu, or a combination of both a park land dedication and a fee in lieu, upon consideration of the public interest, convenience, health, welfare, and safety, including, but not limited to, the following:

1. Topography, geology, access and location of land in the development available for dedication;
2. Size and shape of the development and land available for dedication;
3. Feasibility of dedication;
4. Adequacy of existing park land in the surrounding area pursuant to the Recreation, Parks And Community Services Element policies of the General Plan; Availability of previously acquired park property.
5. The number of parcels or units in the development.

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

13.08.080 Credit for Private Recreation or Open Space.

A. Where private open space for park and recreational purposes, accessible to all residents in a development, is provided in a proposed development, fifty percent credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, if the approval authority finds that it is in the public interest to do so and that all

Clarifications

Clarifications specifying additional factors

the standards in Section 13.08.080B, below are met and findings in Section 13.08.080C can be made.

B. That the open space for which credit is given complies with the following standards:

1. Setback areas, private yards, and other open areas required by zoning and/or building ordinances or for streets and improvements that do not serve the park exclusively, shall not be included in the computation of such private open space.

~~2.~~ The total usable open space acreage for the development must be equivalent to the park land dedication calculated pursuant to Section 13.08.050.

23. The open space must contain the mandatory elements and at least four of the six optional elements indicated in Table 13.08.080 below and meet the following criteria:

a. The combined minimum acreage for a facility with a recreation center and children's play apparatus area is 1.3 acres.

b. The minimum combined acreage for a facility not including a recreation center or children's play area is 1.5 acres.

Table 13.08.080 - Mandatory and Optional Elements for private open space

Mandatory Element	Minimum Acreage
Turfed playfield The playfield shall be a single unit of land which is generally level and free of physical barriers which would inhibit group play activities.	0.50
Optional Elements	
Children's play apparatus area	0.15
Recreational community gardens	0.25
Family picnic area	0.25
Game, <u>fitness or sport</u> court area	0.25
Swim <u>Accessible swimming</u> pool (42' x 75' with adjacent deck and lawn areas)	0.25
Recreation center buildings and grounds	0.15

C. The approval authority may grant park credit for a combination of the above elements or a combination of the above elements and other recreation improvements that will meet the specific recreation needs of a specialized housing development, such as a senior housing development, with occupancy controlled via a covenant with the City named as a third party beneficiary.

Standards for
private open space

Clarifications

D. Findings. The approval authority shall adopt the following written findings and shall require the recordation of covenants running with the land to ensure that credited elements are maintained, before credit is given:

1. That yards, court areas, setbacks, decorative landscape areas normally associated with residential site design and other areas required to remain free and clear by zoning and building ordinances and regulations shall not be included in the computation of such private open space;

2. That such space is to be wholly or partially owned and maintained by the future residents of the development and that the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance or restrictions;

3. That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be eliminated without the consent of the City or its successor;

4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

5. That the facilities proposed for private recreation or open space are in substantial conformance with General Plan policies.

13.08.090 Credit for Existing Dwelling Units.

When dwelling units exist on the property where development is proposed, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for the number of units existing. As used herein, the term "existing" refers to units which exist at the time of approval of the dwelling units or which were demolished within one year prior to the submittal of an application for development of the dwelling units, for which previously park land dedication or fees in lieu thereof have been collected. For credits applicable to existing units included in proposed subdivisions, see section 18.24.110.

13.08.100 General Procedures

A. At the time of approval of the dwelling units, the approval authority shall determine whether a park land dedication, ~~or~~ a fee in lieu thereof, or a combination of both, is required unless a park land dedication or fee has already been provided.

B. At the time of building permit ~~application, issuance or recordation of a final subdivision map, whichever is earliest, park~~ land shall be dedicated to the City or the fee in lieu thereof shall be paid.

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the building permits, ~~approved as to form by the City Attorney,~~ and shall be recorded ~~simultaneously with the issuance of prior to~~ final occupancy.

D. ~~The City will provide a credit to the Developer for the value of any improvements installed by the Developer. This credit shall include a reduction in the amount of land dedicated or fees in-lieu thereof. Improvements and installations performed by the developer for which credits are given must be designed and constructed prior to occupancy of the development. If park land dedication is required, the design of the park shall be reviewed and approved, and construction shall be completed prior to occupancy of the development.~~

Updates

Clarifications and
conformance with State
Law

18.24.020 Purpose.

This section is enacted pursuant to the authority granted by the Government Code. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the open space and conservation element of the adopted General Plan of the City of Cupertino, and any amendments.

18.24.030 Requirements.

A. As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or a combination of both, ~~at the option of the City,~~ for park or recreational purposes at the time and according to the standards and formula contained in ~~this chapter.~~ Chapter 13.08. The City has the discretion to determine which of the three options shall be required.

Clarifications

B. The provisions of this chapter are not applicable to the following land use categories:

1. Commercial or industrial subdivisions;
2. Condominium conversion projects or stock cooperatives which consist of the subdivision of air space in an existing apartment building which is more than five years old when no new dwelling units are added;
3. Convalescent hospitals and similar dependent care facilities; and-
4. Subdivisions containing less than five parcels and not used for residential purposes.

Conformance
with State Law

18.24.040 General Standard.

The Park Land Dedication shall be as identified in the City's General Plan and Chapter 13.08.

18.24.050 Dedication of Land.

~~A. Where dedication of land is required, the subdivider shall dedicate park land in compliance with the formula set out in Section 13.08.050. Where a park or recreational facility has been designated in the open space and conservation element of the General Plan of the City, and is to be located in whole or in part within the proposed subdivision to serve the immediate and future need of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography to serve the residents of the subdivision.~~

~~—B. The formula for determining acreage to be dedicated shall be pursuant to Section 13.08.050.~~

Clarifications

18.24.060 Fees in Lieu of Land Dedication.

~~A. Fees in Lieu of Land Required. Where fees in lieu of park land are required, the subdivider shall pay such fees in compliance with Section 13.08.060.~~

~~General Formula. If there is no park or recreation facility designated in the open space and conservation element of the General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in lieu of dedicating land, pay a fee pursuant to the formula in Section 13.08.060.~~

~~—B. Fees in Lieu of Land—Fifty Parcels or Less. If the proposed subdivision contains fifty parcels or less, the subdivider shall pay a fee in lieu of dedication, unless dedication is deemed appropriate and in the public interest by the City.~~

~~—C. Fair Market Value of land per acre. The Fair Market Value of land per acre shall be established pursuant to Section 13.08.050C.~~

~~—D. Use of Money. The money collected shall be paid and used pursuant to Section 13.08.060D.~~

Clarifications

18.24.070 Criteria for Requiring Both Dedication and Fee.

Clarifications

~~—In subdivisions of over fifty parcels, the subdivider shall both~~The criteria for requiring subdividers to dedicate land and pay a fee in lieu thereof is set forth in Section 13.08.070 and Section 18.24.090. in accordance with the following formula:

~~—A. When only a portion of the land to be subdivided is proposed in the open space and conservation element of the General Plan as the site for a local park, the portion shall be dedicated for local park purposes and a fee computed pursuant to the provisions of Section 18.24.060 shall be paid for any additional land that would have been required to be dedicated pursuant to Section 18.24.050.~~

~~—B. When a major part of the local park or recreational site has already been acquired by the City and only a small portion of land is needed from the subdivision to complete the site, the remaining portion shall be dedicated and a fee computed pursuant to the provisions of Section 18.24.060 shall be paid in an amount equal to the value of the land which would otherwise have been required to be dedicated pursuant to Section 18.24.050, the fees to be used for the improvement of the existing park and recreational facility or for the improvement of other local parks and recreational facilities in the area serving the subdivision.~~

18.24.080 Subdividers not within General Plan.

Where the proposed subdivision lies within an area not included but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu, or a combination of both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this chapter.

Clarifications

18.24.090 Determination of Land or Fee.

~~—A. If the relationship between a proposed subdivision containing fifty parcels or more and the open space and conservation element is unclear, the City Council shall determine whether it accepts land dedication or elects to require payment of a fee, by consideration of the standards identified in Section 13.08.070.~~

A. In addition to the standards identified in Section 13.08.070 for whether the City shall accept land dedication or elect to require payment of a fee, for subdivisions containing fifty parcels or more, or for a condominium project, stock cooperative, or community apartment project exceeding 50 dwelling units, the City shall also consider the policies contained in the Recreation, Parks, and Community Services element of the City's General Plan.

Conformance with State Law

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

18.24.100 Credit for Private Recreation or Open Space.

Where private open space for park and recreational purposes is provided in a proposed subdivision, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, pursuant to requirements of Section 13.08.080.

18.24.110 Credit for Existing Residential Units.

Where any ~~lot or lots of a~~ proposed subdivision contains existing residential units, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for each lot which contains residential unit or units. As used herein, the term "existing" refers to a residential unit or units which exist at the time of the recordation of a final map or which were demolished within one year prior of the tentative map application, for which previously park land dedication or fees in lieu of have been collected.

Clarifications

18.24.120 Procedure.

A. At the time of approval of the tentative subdivision map, the City Council shall determine ~~pursuant to Section 18.24.100 the whether~~ land is to be dedicated and/or fees to be paid, or a combination of both, by the subdivider pursuant to Chapter 13.08.

B. At the time of the filing of the final subdivision map, the subdivider shall dedicate the land and/or pay the fees ~~as previously determined by the City Council.~~

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded simultaneously with the final subdivision map.

D. The City will provide a credit to the Developer for the value of any improvements installed by the Developer. This credit shall include a reduction in the amount of land dedicated or fees in-lieu thereof. Improvements and installations performed by the developer for which credits are given must be designed and constructed prior to occupancy of the development.

Clarifications

Clarifications

18.24.130 Commencement of Development.

At the time of approval of the final subdivision map, the City Council shall specify when development of the park or recreational facilities shall be commenced.

Fourth Addendum to the 2014 Certified General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR

State Clearinghouse No. 2014032007

Prepared by the City of Cupertino



November 26, 2019

SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum to the Final Environmental Impact Report (“Final EIR”) for the City of Cupertino General Plan Amendment, Housing Element Update and Associated Rezoning (the “Final EIR project”) (State Clearinghouse Number 2014032007) addresses proposed clarifications to Park Land Dedication requirements in Chapter 13.08 of the Municipal Code and conforming amendments to portions of Chapter 18.24 (Subdivisions, Dedications and Reservations). The City of Cupertino certified the Final EIR in December 2014, adopted the General Plan in December 2014 with subsequent minor edits adopted in October 2015 and amendments adopted in 2019, and adopted the Housing Element in March 2015. The Final EIR analyzed land use alternatives that included citywide development allocations (as well as building heights and densities) for five Special Areas, seven Study Areas, and other Special Areas.

The purpose of this Addendum is to evaluate whether the proposed modifications to the Park Land Dedication requirements, which are described in Section 3.0 Proposed Changes in Circumstances Under which the Final EIR Project is Undertaken below, require major revisions to the Final EIR or a subsequent EIR due to new significant impacts or a substantial increase in the severity of significant impacts previously identified in the Final EIR. This Addendum has been prepared by the City of Cupertino as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the regulations and policies of the City of Cupertino. For the reasons articulated in this Addendum and based on substantial evidence in the record, the City concludes that no revised or subsequent EIR is required.

SECTION 2.0 STANDARD FOR PREPARATION OF AN ADDENDUM

CEQA Guidelines Section 15164 states that the lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR have occurred.

CEQA Guidelines Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

SECTION 3.0 PROPOSED CHANGE IN CIRCUMSTANCES UNDER WHICH THE FINAL EIR PROJECT IS UNDERTAKEN

The proposed amendments clarify the park land dedication requirements for the development of new residential units. The amendments are applicable to all developable property that would be developed with new residential units, with certain limited exceptions. A zoning map of the City showing residential zones is included in Figure 3-1.

The Final EIR analyzed future development in the City in all zoning districts. Much of the City is zoned primarily for single-family or low-density residential uses, with about 70% of the City comprised of single-family development. In 2014 and today, most of the City is already developed, with very few vacant properties. The Final EIR also recognized the significant challenges to redeveloping single family developments with multi-family uses. Therefore, most future development was anticipated to occur on in-fill sites. The overall residential development, analyzed in the Final EIR and certified in 2014, allowed for the development of up to 4,421 residential units at 2040 Build-out, the majority of which were anticipated to be in mixed-use, multi-family residential projects along major corridors within the City.

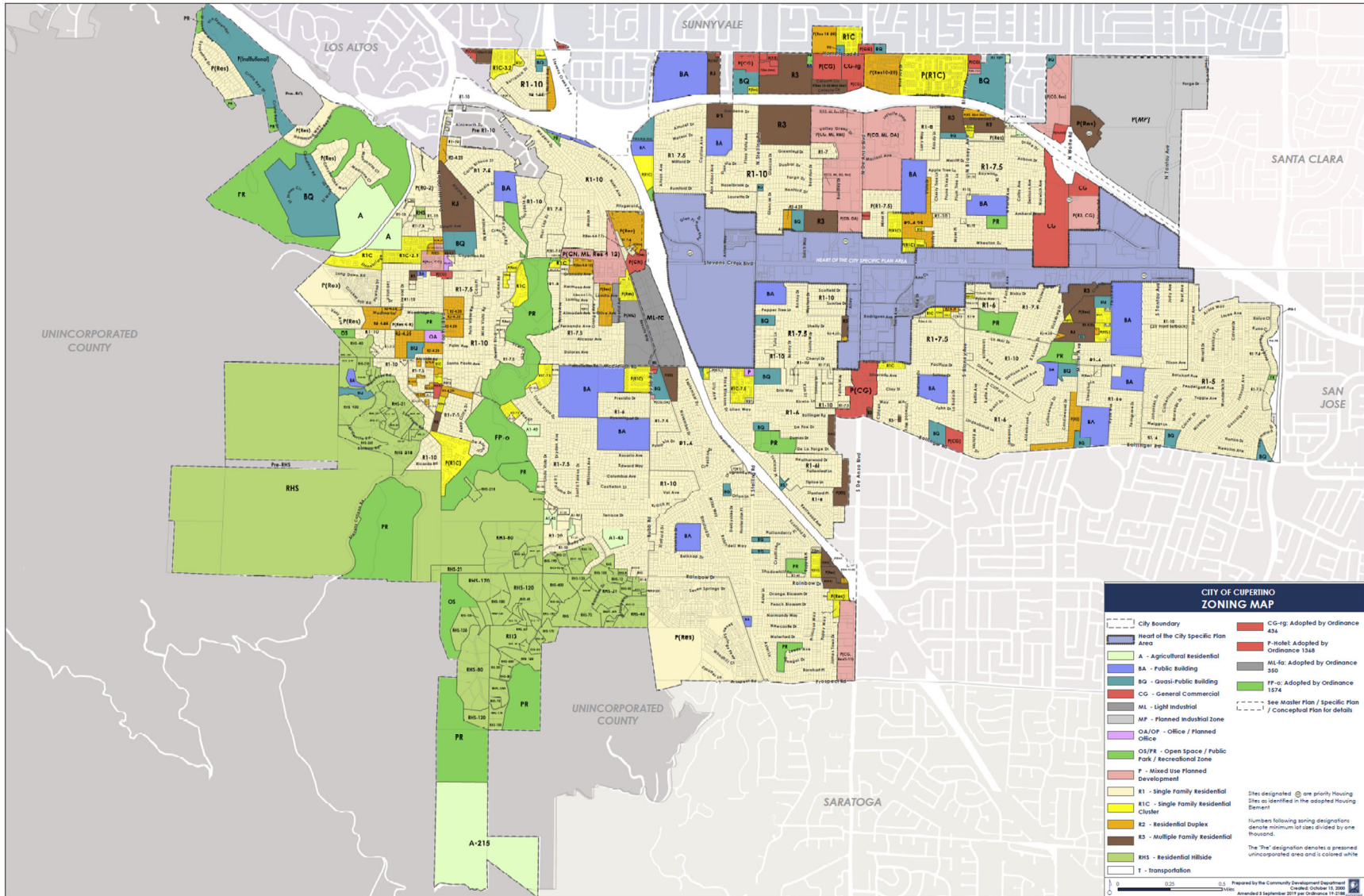
The Final EIR explained that while buildout of the Final EIR Project would cumulatively increase demand for parks and recreational services in the City, compliance with the City’s Municipal Code—including the park land dedication ordinance—“would ensure that adequate parklands and recreational facilities are provided . . . which would mitigate potential impacts that future development would have on park and recreation services in the city.”¹ Final EIR at 4.12-33.

¹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH#

Consequently, the Final EIR concluded that the Final EIR Project would have less than significant impacts to park and recreational services.²

The City proposes clarifications to the park land dedication ordinance, Chapter 13.08 of the Municipal Code and conforming amendments to Chapter 18.24 (Dedications and Reservations for subdivisions). These amendments may be considered a change in the circumstances under which the Final EIR project is undertaken, given that the Final EIR relies on the park land dedication ordinance to evaluate the potential significance of City residential development. Specifically, the City proposes to adopt the following text amendments to the Municipal Code to clarify park land dedication regulations by providing express requirements to:

- Require park land dedications to be at the ground level and in fee simple ownership.
- Require park land dedications to be of a minimum size, width, and slope, as specified.
- Require park land dedications to be located adjacent to a street.
- Require private open space applied towards dedication credits to be accessible to all residents in the development, and other clarifying requirements.
- Add other minor clarifications to improve readability of the ordinance, to clarify existing standards and processes, to correct internal references and cross-references, and to ensure internal consistency.



ZONING MAP

FIGURE 3-1

SECTION 4.0 ENVIRONMENTAL IMPACTS OF THE PROPOSED CHANGE IN CIRCUMSTANCES UNDER WHICH THE FINAL EIR PROJECT IS UNDERTAKEN

The following discusses the potential effects on the physical environment from implementing the proposed change in circumstances under which the Final EIR project will be undertaken. This analysis has been prepared to determine whether any of the conditions in State CEQA Guidelines Section 15162 (described in Section 2.0 Standards for Preparation of an Addendum, above) would occur as a result of the proposed change in circumstances related to the park land dedication regulations.

4.1 SAME IMPACTS

The analyses in the Final EIR assumed that a majority of new development anticipated in the City would be infill development in mixed-use, multi-family developments as is evidenced in a review of the areas where the residential growth was planned.³ The Final EIR identified General Plan policies and programmatic mitigation measures to reduce the park and recreation impacts from development of multi-family uses in any of the areas that allow such development, including the park land dedication ordinance. The clarifications identified above, if adopted by the City Council as part of the proposed modifications, would not change the less-than-significant impact analyzed and disclosed in the Final EIR because the parkland dedication ordinance, as modified, together with the other requirements and policies identified in the Final EIR, would still adequately mitigate potential impacts that future development would have on park and recreation services. The proposed amendments do nothing to significantly change the application or effectiveness of the park land dedication ordinance or other policies. For this reason, the decision by the City Council as to clarify the park land dedication standards has no effect on the analysis or conclusions in the Final EIR.

The proposed change in circumstances would have no impacts to agriculture, forestry, or mineral resources, because those resources are not found within the City of Cupertino. The proposed change in circumstances, therefore, would not result in any new or substantially more severe significant impacts to agriculture, forestry, or mineral resources than were analyzed and disclosed in the Final EIR.

The proposed change in circumstances do not modify the assumption that infill, mixed-use multi-family development are anticipated within the Special Areas and major corridors. Clarifying the park land dedication standards for development within these areas would not cause a new significant impact or a substantial increase in the severity of the impacts analyzed and disclosed in the Final EIR. For this reason, the proposed change in circumstances would result in the same land use impacts as

³ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Response to Comments Document*. SCH# 2014032007. August 28, 2014. Page 3-29.

disclosed in the Final EIR, and would not result in any new or substantially more severe significant land use impacts than were analyzed and disclosed in the Final EIR.

The physical condition and characteristics of the properties within the City have not substantially changed since the certification of the Final EIR. The urban nature, trees, soil characteristics, seismic potential, and drainage on-site are in the same or similar condition as they were in 2014. The development facilitated by the proposed modifications to parkland dedication ordinance would take place in the same areas and result in the same area of ground disturbance as analyzed in the Final EIR. For this reason, the proposed change in circumstances would result in the same impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

The number of residential units that could be built in the City would not be impacted by the proposed change in circumstances compared to the analysis contained in the Final EIR. The residential densities remain unchanged and no changes are proposed to the residential development allocation in the General Plan. The calculation of parkland dedication acreage and in lieu fee requirements remain unchanged. For this reason, the proposed change in circumstances would have the same population and housing impacts as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

Since no changes are proposed to the overall development program analyzed in the Final EIR, there would be no changes to the daily or peak hour vehicle trips. For this reason, the change in circumstances would not result in new or substantially more severe significant traffic impacts than were analyzed and disclosed in the Final EIR. In addition, there would be no changes to pollutant emissions, noise and vibration, and energy and utility demand compared to the analysis in the Final EIR.

The Final EIR project identifies height limitations and includes slope line criteria for development; these standards are not impacted by the proposed change in circumstances. Therefore, implementation of the proposed text amendments in the Municipal Code would not result in greater impacts to aesthetics, air quality, energy, greenhouse gas emissions, public services, recreation, transportation, and utilities and service systems than were analyzed and disclosed in the Final EIR because the amount of development analyzed remains the same.

The City does not anticipate that the proposed text amendments would result in reduced amounts of development as compared to the Final EIR Project. However, the Final EIR evaluated alternatives to

the Final EIR project that included reduced amounts of development,⁴ and concluded that these alternatives would result in essentially the same impacts as the Final EIR project.⁵

Table 4-1 summarizes the impacts of the proposed modifications to the Final EIR compared to Final EIR project.

⁴ The below table summarizes the citywide development amounts studied as the Final EIR project and alternatives analyzed in the Final EIR. Summary of Citywide Development Studied in the Final EIR.

	Final EIR Project	No Project	Land Use Alternative A	Land Use Alternative B
Office Square Footage	4,040,231	540,231	1,040,231	2,540,231
Commercial Square Footage	1,343,679	701,413	701,413	1,343,679
Hotel Rooms	1,339	339	600	839
Residential Units	4,421	1,895	1,895	3,316

Source: City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 2-5.

⁵ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 5-5.

Table 4-1: Comparison of Impacts of the Final EIR Project and Proposed Modifications to the Final EIR Project			
	Compared to Impacts Disclosed in the Final EIR, the Impacts of the Proposed Modifications to the Final EIR Project would be:		
	Same	Lesser	New Significant or More Substantial
Aesthetics	X		
Agricultural and Forestry Resources	X		
Air Quality	X		
Biological Resources	X		
Cultural Resources	X		
Geology, Soils, and Seismicity	X		
Greenhouse Gas Emissions	X		
Hazards and Hazardous Materials	X		
Hydrology and Water Quality	X		
Land Use and Planning	X		
Mineral Resources	X		
Noise and Vibration	X		
Population and Housing	X		
Public Services and Recreation	X		
Transportation and Traffic	X		
Utilities and Service Systems	X		

SECTION 5.0 COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTION 15162

5.1 SUBSTANTIAL CHANGES TO THE PROJECT

The proposed changes to the park land dedication ordinance are not a change to the project analyzed in the Final EIR. Consequently, there are no substantial changes proposed in the Final EIR project that will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

5.2 SUBSTANTIAL CHANGES IN CIRCUMSTANCES

As described above in Section 4.0, the proposed change in circumstances related to modifications to the park land dedication ordinance would not result in new significant environmental impacts beyond those identified in the Final EIR, would not substantially increase the severity of significant environmental effects identified in the Final EIR, and thus would not require major revisions to the Final EIR. The proposed change in circumstance, therefore, is not substantial and does not require major revisions to the Final EIR or a subsequent EIR.

In addition, the physical conditions within the City have not changed substantially since the certification of the Final EIR, although some structures have been improved and others have been demolished. Clarifying the applicable parkland standards for some of these modified sites do not result in a new significant environmental effect or a substantial increase in the severity of environmental effects identified in the Final EIR, and, thus, do not require major revisions to the Final EIR or a subsequent EIR.

5.3 NEW INFORMATION

No new information of substantial importance, which was not known and could not have been known when the Final EIR was certified, has been identified which shows that the proposed modifications to circumstances for the Final EIR project would be expected to result in: 1) new significant environmental effects not identified in the Final EIR; 2) substantially more severe environmental effects than shown in the Final EIR; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the Final EIR would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative.

SECTION 6.0 CONCLUSION

For the reasons stated above, and based on the analysis in the Final EIR and the existing conditions in the City, the City has concluded that the proposed change in circumstances would not result in any new impacts not previously identified in the Final EIR; nor would it result in a substantial increase in the severity of any significant environmental impact previously identified in the EIR. For these

reasons, a subsequent EIR is not required and an addendum to the Final EIR is the appropriate CEQA document to address the proposed amendments to the park land dedication ordinance.



GOAL RPC-2

Distribute parks and open space throughout the community and provide services, and safe and easy access, to all residents and workers

POLICY RPC-2.1: PARKLAND ACQUISITION

The City's parkland acquisition strategy should be based upon three broad objectives:

- Distributing parks equitably throughout the City;
- Connecting and providing access by providing paths, improved pedestrian and bike connectivity and signage; and
- Obtaining creek lands and restoring creeks and other natural open space areas, including strips of land adjacent to creeks that may be utilized in creating buffer areas, trails and trail amenities.

STRATEGIES:

RPC-2.1.1: Dedication of Parkland.

New developments, in areas where parkland deficiencies have been identified, should be required to dedicate parkland rather than paying in-lieu fees.

RPC-2.1.2: Public Use of School Sites.

Zone all public school sites for public use to allow for the public to use sites, when not in use by schools, through shared arrangements.

RPC-2.1.3: Acquisition of Surplus Properties.

Explore acquisition of surplus school and agency properties for parkland. Take advantage of the Naylor Act to purchase surplus school sites.

POLICY RPC-2.2: PRIVATE OPEN SPACE AND RECREATION FACILITIES

Encourage the continued existence and profitability of private open space and recreation facilities through incentives and development controls.

STRATEGIES:

RPC-2.2.1: Existing Facilities.

Encourage the continued existence of private recreational facilities through land use zoning and incentives.

RPC-2.2.2: New Facilities.

- Require major developments to incorporate private open space and recreational facilities, and seek their cooperation in making the spaces publicly accessible.
- Where feasible, ensure park space is publicly accessible (as opposed to private space).
- Encourage active areas to serve community needs. However, a combination of active and passive areas can be provided based on the setting.
- Integrate park facilities into the surroundings.
- If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.

POLICY RPC-2.3: PARKLAND DISTRIBUTION

Strive for an equitable distribution of parks and recreational facilities throughout the City. Park acquisition should be based on the following priority list. Accessibility to parks should be a component of the acquisition plan.

- **High Priority:** Parks in neighborhoods or areas that have few or no park and recreational areas.
- **Medium Priority:** Parks in neighborhoods that have other agency facilities such as school fields and district facilities, but no City parks.
- **Low Priority:** Neighborhoods and areas that have park and recreational areas which may be slightly less than the adopted City's parkland standard.
- **Private Development:** Consider pocket parks in new and renovated projects to provide opportunities for publicly-accessible park areas.

POLICY RPC-2.4: CONNECTIVITY AND ACCESS

Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and

biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks.

STRATEGIES:

RPC-2.4.1: Pedestrian and Bike Planning.

Implement recommendations in the Bicycle and Pedestrian Plans to link employment and special areas, and neighborhood to services including parks, schools and neighborhood shopping.

RPC-2.4.2: Signage.

Adopt and maintain a master signage plan for all public parks to ensure adequate and consistent signage is provided to identify public recreational areas.

POLICY RPC-2.5: RANGE OF PARK AMENITIES

Provide parks and recreational facilities for a variety of recreational activities.

STRATEGIES:

RPC-2.5.1: Special Needs.

Extend recreational opportunities for special needs groups (seniors, disabled, visually-challenged, etc.) by making improvements to existing facilities and trails.

RPC-2.5.2: Recreational Facilities.

Explore the possibility of providing additional access to existing facilities such as gymnasiums, swimming pools and tennis courts.

RPC-2.5.3: Community Gardens.

Encourage community gardens, which provide a more livable environment by controlling physical factors such as temperature, noise, and pollution.



CITY OF CUPERTINO

Legislation Text

File #: 19-6593, **Version:** 1

Subject: Consider out-of-cycle Community Funding Grant for West Valley Community Services.

Consider an out-of-cycle Community Funding Grant request of \$5,000 for West Valley Community Services Gift of Hope Program and either:

- Approve a Community Funding Grant of \$5,000 for West Valley Community Services Gift of Hope Program, or
- Recommend that West Valley Community Services apply for a Community Funding Grant during the City's regular grant process.



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 3, 2019

Subject

Consider out-of-cycle Community Funding Grant of \$5,000 for West Valley Community Services.

Recommended Action

Consider an out-of-cycle Community Funding Grant request of \$5,000 for West Valley Community Services Gift of Hope Program and either:

- Approve a Community Funding Grant of \$5,000 for West Valley Community Services Gift of Hope Program, or
- Recommend that West Valley Community Services apply for a Community Funding Grant during the City's regular grant process.

Discussion

A Community Funding Grant request of \$5,000 was received for West Valley Community Services' (WVCS) Gift of Hope Program. Consideration of this funding request would occur outside of the City's regular Community Funding Grant Program process. Community Funding opportunities are made available to local non-profits on February 1st of every year with applications due on March 1st followed by a review of applications and recommendations by the Parks and Recreation Commission. If this funding is approved, it would be a stand-alone Community Funding Grant rather than be a requests that is considered among other applicants.

WVCS is a non-profit organization that has been providing safety net services to low income and homeless individuals and families in the West Valley region of Santa Clara County for more than 45 years. WVCS offers a range of services, targeting families with children, at-risk youth, seniors, individuals, and disabled adults who are extremely low-income, living on a fixed-income, homeless or are at risk of becoming homeless. In 2019, WVCS was awarded a Community Funding Grant of \$20,000 for its Pantry Overhang program through the City's regular grant process.

The additional funding request would be for the Gift of Hope Program, which was started to combat the stress and hopelessness that families living in poverty face during the holidays, with the goal of creating hopefulness and possibilities. This Program provides gifts and food to homeless and low-income families living in the service area during the December holiday

season. Gifts include traditional items, such as toys and small household appliances, in addition to seasonally appropriate clothing items that families cannot afford, such as jackets, gloves, hats, warm socks, and blankets. In addition to providing much needed items to families struggling financially, it relieves the stress caused by the pressure to engage in holiday spending that low-income families cannot afford. The Gift of Hope Program also allows families living in poverty to preserve household assets that would have been spent on holiday gifts so that they can be spent on critical household needs such as rent, utilities, and food. As part of the FY20 Community Funding process, in February 2019, WVCS applied for a Community Funding Grant for FY20 and was awarded \$20,000 for a pantry overhang that will help to optimize food operation during inclement weather, improving client and volunteer experience.

Current Community Funding Policy

The City of Cupertino currently provides funding to local non-profit organizations. The current Community Funding Policy establishes a standard application process whereby funding decisions for non-profit requests can be addressed on a fair and consistent basis by establishing a set of criteria for evaluating all requests, ensuring that entities follow a formal application process, and pre-approving a dollar limit for those requests. (Attachment A).

Current Community Funding Process

At the Budget Adoption hearing in June 2018, Council requested that the Community Funding Program be updated to ensure that all applications receive due consideration and that Council is provided with all information necessary to make the final funding decisions. Council requested that the Parks and Recreation Commission evaluate all grant applications and provide funding recommendations to Council for consideration.

On March 7, 2019, staff introduced the revised Community Funding Program to the Parks and Recreation Commission. The updated process includes the following:

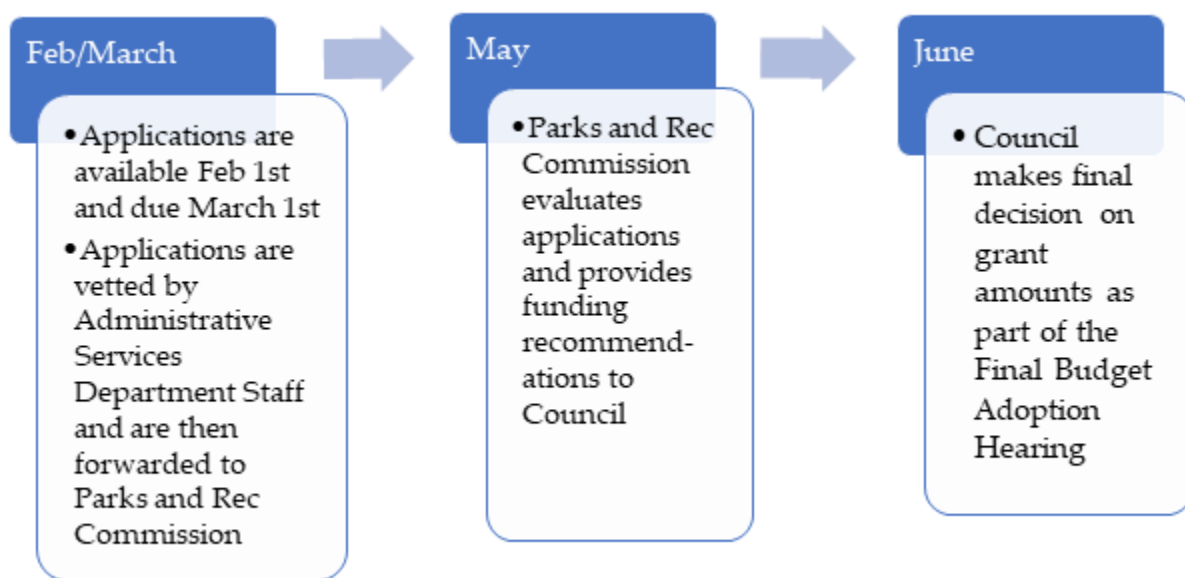
- All applications are due March 1. The Administrative Services Department reviews application for compliance with eligibility criteria and availability of funds. Staff may seek additional information from applicant as necessary.
- Eligible applications are then forwarded to the Parks and Recreation Commission for a review and recommendation to the Council regarding grant approval and funding amounts:

Additionally, staff developed criteria based on Council direction and best practices in other cities. The evaluation criteria include the following:

- Impact on and benefit to the Cupertino community
- Community need for the program/project/event
- Alignment with City priorities
- Uniqueness of the program/project/event
- Qualifications and experience of the organization and its staff
- Reasonable cost
- Demonstrated effort to secure funding from other sources

- Clarity, completeness, and accuracy of grant application
- Past performance and compliance with requirements if a recurring applicant

The current Community Funding Grant process requires organizations to submit a formal grant application that is first vetted by Administrative Services Department Staff to ensure minimum qualifications are met and is then forwarded to the Parks and Recreation Commission for further evaluation. The Parks and Recreation Commission then forwards their funding recommendation to Council during the Proposed Budget Study Session in May. Council makes the final decision on grant amounts for each applicant as part of the Final Budget Adoption Hearing which typically happens in June. The chart below summarizes this process:



If this funding application is approved, it will be an exception to the current policy and process for community funding grants.

Funding Options

There are 2 options to consider in this out-of-cycle funding request:

- Option A – Approve the Community Funding Grant request of \$5,000 for WVCS Gift of Hope Program
- Option B – Recommend WVCS apply for Community Funding Grant during regular grant process as summarized above

Sustainability Impact

No sustainability impact.

Fiscal Impact

If approved, this would increase Community Funding expenditures by \$5,000, funded by unassigned general fund fund balance.

Prepared by: Toni Oasay-Anderson, Management Analyst

Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Deborah L. Feng, City Manager

Attachments:

A – Community Funding Policy

B – Community Funding Grant Application for Gift of Hope

Fiscal Policies – Community Funding Policy

PURPOSE

The City of Cupertino currently provides funding to local non-profit organizations in the areas of social services, fine arts and other programs for the general public. This policy establishes a standard application process whereby funding decisions of non-profit requests can be addressed on a fair and consistent basis by establishing a set of criteria for evaluating requests, ensuring that all entities follow a formal application process and pre-approving a dollar limit for those requests.

SCOPE

All requests for funding must comply with this policy.

POLICY

The applicant should identify the services provided, purpose for the funds, how the expenditure aligns to City priorities and how the funds will be used to benefit the Cupertino community.

A recurring organization should state how prior year funds, if any, were used.

The applicant should include information about the organization, its budget and its purpose.

Non-profit organizations which serve multi-jurisdictions should state what they have requested from other cities/organizations they service in regards to this program request.

Cupertino does not fund ongoing operational costs. Requests should be for one-time, project specific needs.

The organization must show that their staff has the experience to implement and manage the project. More than 75% of the budget must go to direct service costs versus administrative costs.

Staff should include all requests and funding recommendations for Council consideration.

Non-profits will be notified of our process in advance and no proposals will be entertained after **March 1 of each year.**

City Council will make the final decision as part of the budget process.



CUPERTINO

COMMUNITY FUNDING GRANT APPLICATION

ADMINISTRATIVE SERVICES | 408-777-3220 | WWW.CUPERTINO.ORG

INSTRUCTIONS

Complete this application in full by March 1st, 2019 to be considered for a Fiscal Year 2019-20 Community Funding Grant. Please answer each question completely and concisely. If additional space is needed, you may continue your response in another document and submit it as an attachment to the application. As in prior years, funding is contingent upon the City Council's General Fund allocation to the program and funding is not guaranteed.

Eligibility

To be eligible for a Community Funding Grant, grant requests must:

- Be made or sponsored by a 501(c)(3) non-profit organization with experienced staff capable of implementing and managing the program/project/event.
- Identify how the funds will be used to benefit the Cupertino community.
- Be for one-time, project specific needs and 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 March 1, 2019.

Evaluation Criteria

Evaluation criteria for grant requests include, but are not limited to, the following:

- Impact on and benefit to the Cupertino community
 - Number of Cupertino residents served vs. number of non-Cupertino residents served
 - Cost per Cupertino resident served vs. cost per non-Cupertino resident served
 - Availability of the program/project/event to the entire Cupertino community
- Community need for the program/project/event
- Alignment with City priorities
- Uniqueness of the program/project/event
 - Lack of duplication in service
 - Level of collaboration if a duplicated service
- Qualifications and experience of the organization and its staff
- Reasonable cost
- Demonstrated effort to secure funding from other sources
- Clarity, completeness, and accuracy of grant application
- Past performance if a recurring applicant

Submission

Please submit your completed application by emailing it to marielar@cupertino.org. Applications are due by March 1, 2019. Applications not received by the due date will be ineligible for funding in Fiscal Year 2019-20.



CUPERTINO

COMMUNITY FUNDING GRANT APPLICATION

ADMINISTRATIVE SERVICES | 408-777-3220 | WWW.CUPERTINO.ORG

SECTION 1: CONTACT INFORMATION

Full Legal Organization Name:

Website:

Address:

City: State: Zip: Phone:

Organization President/Executive Director Name and Title:

Email: Phone:

Contact Name and Title:

(If different)

Email: Phone:

SECTION 2: NON-PROFIT INFORMATION

501(c)(3)?: Yes
 No

Year Established:

Fiscal Sponsor Name:

Fiscal Sponsor Address:

City: State: Zip: Phone:

Federal Tax ID:

(If your program is fiscally sponsored, enter the tax ID of your sponsoring organization)

SECTION 3: ORGANIZATION INFORMATION

Total Organization Budget: Total # of Board Members:

Total # of staff: Total # of Volunteers:

Mission Statement:

The mission of West Valley Community Services is to unite the community to fight hunger and homelessness.

Brief Description of Organization:

West Valley Community Services, Inc. is a private non-profit, community-based agency that has been providing direct assistance and referral services in the West Valley communities of Cupertino, Saratoga, Los Gatos, Monte Sereno, West San Jose, and the unincorporated mountain regions for 45 years. We provide a continuum of basic needs, housing assistance, and family support services including information and referrals, food, homeless services, affordable housing, financial assistance and case management. The mission of West Valley Community Services is to unite the community in ending hunger and homelessness. According to the US Census there are 22,000 men, women, and children are living in poverty in the west valley. Since the last census, low income individuals and families have faced rapidly increasing housing costs and stagnating wages that are threatening their safety, health, and self-sufficiency. Some of the challenges clients are facing in Santa Clara County are: *Lack of affordable housing for low-income families *Income insecurity due to high debt ratios and low savings *Underpaid workforce with lack of benefits including paid sick leave, vacation and retirement benefits *Increase in commute time and transportation costs As a result of these issues in Silicon Valley, West Valley Community Services has experienced an increase in demand year over year of 53% since 2017. Despite this challenge, we have been able to scale our operations and assist everyone who came to our doors for help.

Brief Description of Services Provided:

West Valley Community Services' case management is intended to help low-income seniors and disabled adults become independent by improving accessibility to services, helping low-income individuals meet their basic needs, and promoting a connection to the community. The long term outcome of this program is to help low-income household's safety, health, and independence so that they can remain living in the community and maintain a good quality of life.

We can achieve this outcome through an array of programs and services we provide our clients:

- By providing emergency rental and utility assistance, West Valley Community Services is preventing clients from evictions and homeless. With this help clients are prevented from entering the downward spiral that can make returning to stability difficult or impossible.
- By providing supplemental food, West Valley Community Services is preventing hunger, improving health and nutrition, and enabling clients to spend more of their financial resources on housing, transportation, medical costs, and other life essentials.
- By providing case management, information, and referrals, West Valley Community Services is helping clients find the resources they need to acquire suitable housing, learn about public benefits, eat more healthfully, cover healthcare expenses, and much more.
- By providing access to a mobile food pantry, West Valley Community Services is making food pantry service accessible to all close to where they live. The mobile food pantry has several locations in West San Jose, Saratoga and Los Gatos.
- By providing curb to curb transportation, West Valley Community Services is providing scheduled rides for social inclusion, events, errands, and medical appointments (as well as some on-demand non-medical, non-emergency appointments) transportation to ambulatory seniors and dependent adults over the age of 55 who reside in the West Valley communities of Saratoga, Cupertino, Campbell, Monte Sereno, and Los Gatos.

SECTION 4: GRANT REQUEST

1. Program/Project/Event Name:
2. Date(s) and/or duration of program/project/event (if applicable):
3. Total program/project/event budget: \$
4. Requested Amount: \$ Percent of total program/project/event budget: %
5. What percentage of your organization's projected income does your funding request represent?
 %

6. Type of Request:

- Capital improvement
- Program Support
- Event
- One-time project
- Other, please describe:

7. This grant will fund a(n):

- Existing program/project/event; established in (year)
- New program/project/event

8. Describe the purpose of requested funds and the services that will be provided:

The December holidays are a challenging time for many people, as the stress of shopping, cooking, and family get together make for a busy and often draining six weeks. For families living in poverty, however, the holiday season is particularly stressful. Homeless and low income families cannot afford to purchase gifts - even necessary items such as seasonally appropriate clothing - and often cannot take the time or pay the travel costs to celebrate the holidays with family. This is particularly difficult for children, who do not understand why they are unable to celebrate seasonal holidays the same way their friends and neighbors do. As a result, the holiday season adds even more stress to the lives of homeless and low income families. Researchers have found that the stress associated with living in poverty affects all members of a household, and extreme levels of stress can have long-term negative impacts on young people growing up in low-income households.

9. Please provide a line item breakdown of how the funds will be used in the categories below. If a category is not applicable, put \$0:

- a) Admin Staff \$
- b) Materials/Equipment \$
- c) Entertainment \$
- d) Room/Venue Rental \$
- e) Other Professional Services such as \$
- f) Other \$

10. Explain how the request aligns to City priorities:

According to the City's general plan, Cupertino aims to create a community that is balanced and inclusive for all residents. WVCS makes that possible through our services to low income and homeless residents.

11. Describe how the program/project/event fills a community need. Who identified this need? What other similar project/program/event exists to serve Cupertino residents? How is your proposed project/program/event unique from similar projects/programs/events or how do you collaborate to avoid duplication?

In the midst of such intense stress, vulnerable families may begin to feel that their situation is hopeless, draining them of the ability to see the possibility of a brighter, more stable future for themselves or their family. Studies have shown that the "bleak reality and marginalization of homelessness undermines hope, and often results in hopelessness - a known predictor of increased suffering, poor physical outcomes, and suicide." (Ensign, Abadin-Barrero, Lindgren, Wilstrand, Clarke, Kirkcaldy). The Gift of Hope program was started to combat the stress and hopelessness families living in poverty face during the holidays, and replace it with a sense of hopefulness and possibilities.

The Gift of Hope program provides gifts and food to homeless and low income families living in our service area during the December holiday season. Gifts include traditional items, such as toys and small household appliances, in addition to seasonally appropriate clothing items that families cannot afford, such as jackets, gloves, hats, warm socks, and blankets. In addition to providing much needed items to families struggling financially, it relieves the stress caused by the pressure to engage in holiday spending that low income families cannot afford. The Gift of Hope program also allows families living in poverty to preserve household assets that would have been spent on holiday gifts so that they can be spent on critical household needs such as rent, utilities, and food.

12. Who will be served by this grant?

Low Income Cupertino residents

a) Number of individuals total: 800

b) Number of Cupertino residents: 200

c) Particular community groups:

d) Will the program/project/event be available to the entire community/public or are there any eligibility criteria?

Yes

e) Will there be a charge or fee for the program/project/event (if applicable)?

WVCS services are free of charge

f) What outreach methods does your organization use to promote the program/project/event (if applicable)?

If awarded we will publicize it on our agency newsletter and social media.

13. Describe how the funds will be used to benefit or impact the Cupertino community:

The Gift of Hope program provides gifts to homeless and low income families living in our service area during the December holiday season. Gifts include traditional items, such as toys and small household appliances, in addition to seasonally appropriate clothing items that families cannot afford, such as jackets, gloves, hats, warm socks, and blankets. In addition to providing much needed items to families struggling financially, it relieves the stress caused by the pressure to engage in holiday spending that low income families cannot afford. The Gift of Hope program also allows families living in poverty to preserve household assets that would have been spent on holiday gifts so that they can be spent on critical household need such as rent, utilities, and food.

14. Demonstrate that the staff implementing and managing the program/project/event have adequate experience:

The project will be managed by Trishya Movilla , our events coordinator and supervised by Doben Laris, Program Manager Client Services.

15. How will success of the program/project/event be measured?:

The success will be measured through the client annual survey.

16. More than 75% of the requested funds will go towards direct service costs versus administrative costs?:

- Yes
- No

17. Will you collaborate with other organizations to deliver the program/project/event funded by this grant? If so, which organizations?

Yes, we do collaborate with faith communities, service organizations, foundations, and corporations to help fund this program.

18. If your organization has ever received financial or in-kind support from the City of Cupertino outside of Community Funding Grants, please describe this support:

In the past, WVCS has received CDBG and Human service grants from City of Cupertino

19. Does your organization anticipate receiving additional financial or in-kind support from the City of Cupertino outside of Community Funding Grants for this type of program/project/event (e.g. fee waivers)? If so, please describe this anticipated support:

We do not anticipate receiving any additional financial support from City of Cupertino for this program.

20. If you are a multi-jurisdictional organization, describe any funding requested from other agencies/organizations in regards to this program/project/event request. Indicate whether the funding was granted, denied, or is still pending:

We have not applied for funding from other city or town jurisdictions.

21. How would you fund the program/project/event if you do not receive the requested funding?:

WVCS continues to fundraise for this program.

SECTION 5: PRIOR FUNDING

1. If you received a Community Funding Grant in prior years, indicate the amounts for each year and describe how those funds were used:

We have received funding in the amount of \$20,000 from the Community Funding Grant for Pantry Overhang this year

2. If you received a Community Funding Grant last year:

a. Please provide a line item breakdown of how the Community Funding Grant was used last year in the categories below. If a category is not applicable, put \$0:

- i. Admin Staff \$ [redacted]
- ii. Materials/Equipment \$ [redacted]
- iii. Entertainment \$ [redacted]
- iv. Room/Venue Rental \$ [redacted]
- v. Other Professional Services such as [redacted] \$ [redacted]
- vi. Other [redacted] \$ [redacted]

b. Who was served by the grant last year?

[redacted]

- i. Number of individuals total: [redacted]
- ii. Number of Cupertino residents: [redacted]
- iii. Particular community groups:

[redacted]

iv. Was the program/project/event be available to the entire community/public or are there any eligibility criteria?

[redacted]

v. Was there a charge or fee for the program/project/event (if applicable)?

[redacted]

vi. What outreach methods did your organization use to promote the program/project/event (if applicable)?

[redacted]

c. Was the program/project/event successful? Please indicate how success was measured:

[redacted]

3. Please indicate any additional funding received last year from other sources and provide your financial statement if available:

Our most recent financial audit attached.

SECTION 6: CERTIFICATION

I hereby state that the information presented in this application is true and complete to the best of my knowledge.

Name: Title:

Signature: Date: