CC 10-17-2021

#17

General Plan Amendment (GPA-2021-001)

Municipal Code Amendment (MCA-2021-004)

Presentation



City Council October 19, 2021

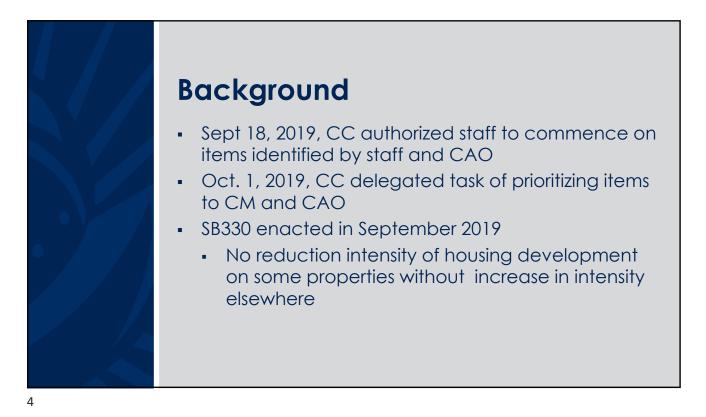


GPA-2021-001 & MCA-2021-004

- Amendments to Cupertino General Plan to add:
 - Clarity to existing language in Chapter 3 (Land Use) in Figure LU-2, Policy LU-1.1 and Goal LU-13, and
 - Emphasis to existing language in Chapter 6 (Environmental Resources and Sustainability) (Strategy ES-6.1.1),
- Amendments to Cupertino Municipal Code Title 17, Environmental Regulations, (add new Chapter) to adopt standard environmental protection requirements for construction, development and other similar or related activities.

Background

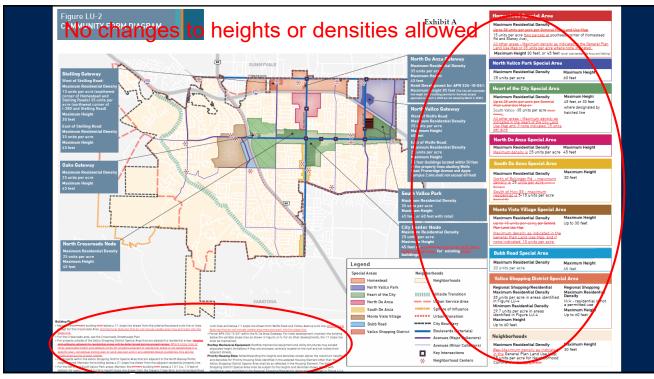
- Changes in state law require some housing developments to comply with objective standards in City's general plan and zoning
- FY19/20 Work program update GP and zoning to include objective standards
- CAO identified some items include prior updates to Park Land dedication and Planned Development zones chapters
- PC and CC invited public to suggest areas
- Large number of items collected



Background

- Items prioritized with this background as:
 - Immediate completion <u>being presented now</u>
 - Current Work Program Items underway
 - Completed
 - Possible Housing Element update
 - Possible Future Work Program
 - On Hold not recommended by PC or consider with future comprehensive GP update

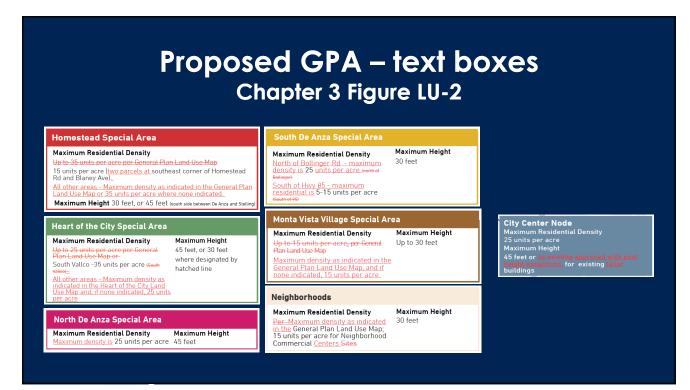




Proposed GPA - Footnotes Chapter 3 Figure LU-2

Building Planes:

- Maintain the primary building bulk below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area. Architectural features that do not include usable area may encroach into the slope line.
- For the Crossroads area, see the Crossroads Streetscape Plan.
- For projects outside of the Vallco Shopping District Special Area that are adjacent to residential areas: <u>Heights</u> <u>and setbacks adjacent to residential areas will be determined during project review</u>. Where slope lines or <u>other applicable height and setback limits for projects adjacent to residential areas is not established in a</u> <u>specific plan, conceptual zoning plan or land use plan and in any adopted design guidelines, this will be</u> <u>established during project review</u>.
- For projects within the Vallco Shopping District Special Area that are adjacent to the North Blaney/Portal neighborhood: Maintain the building below a 2:1 slope line drawn from the adjacent residential property line.
- For the North and South Vallco Park areas: Maintain the primary building bulk below a 1.5:1 (i.e., 1.5 feet of setback for every 1 foot of building height) slope line drawn from the Stevens Creek Blvd. and Homestead Road curb lines and below 1:1 slope line drawn from Wolfe Road and Tantau Avenue curb line. Architectural features that do not include usable area may encroach into the slope line.



Proposed GPA – text edits Chapter 3; LU-1.1 and Goal 13

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 Figure LU-2 indiciates the maximum residential densities for sites that allow residential land uses.

HEART OF THE CITY SPECIAL AREA

The Heart of the City will remain the core commercial corridor in Cupertino, with a series of commercial and mixed-use centers and a focus on creating a walkable, bikeable boulevard that can support transit. General goals, policies and strategies (as identified in Goal LU-13) will apply throughout the entire area; while more specific goals, policies, and strategies for each subarea are desgined to address their individual settings and characteristics and are identified in Goals LU-14. through LU-18.

Proposed GPA – text edits Chapter 6; Strategy ES-6.1.1

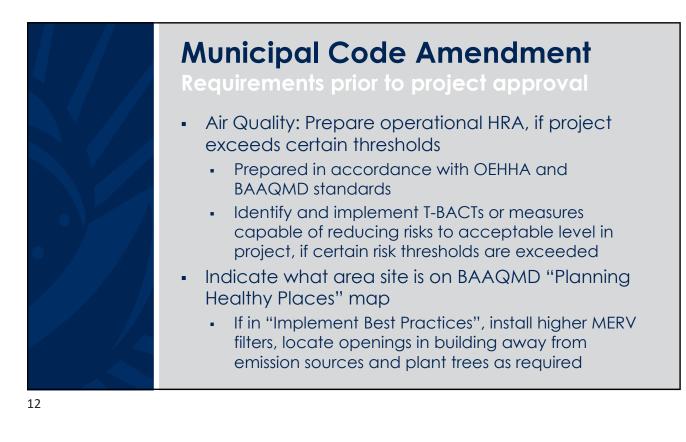
STRATEGIES:

ES-6.1.1: Public Participation. <u>Strongly</u> encourage Santa Clara County to engage with the affected neighborhoods when considering changes to restoration plans and mineral extraction activity.

Municipal Code Amendment

Add new Chapter 17.04

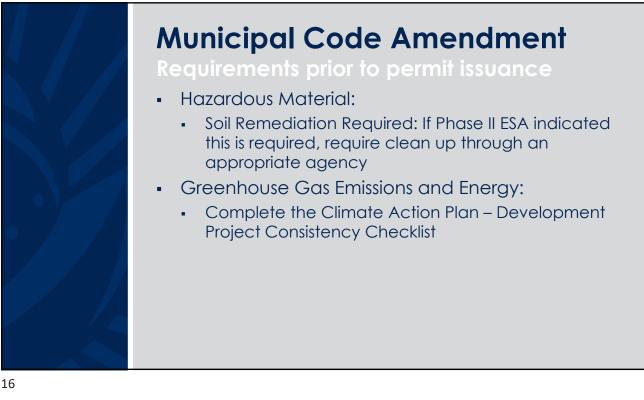
- Definitions
- Applicability: All projects involving subdivision, construction, ground-disturbing activities and tree removal
 - Non-residential/residential (4+ units) = CMP and/or permit plans
 - Residential (<4 units)/additions/remodels/TIs = Permit plans
 - No bldg. or ground disturbing permit required (includes Tree removals) = implement requirements as would be required for permitted work



Accurate prior to project approval Hazardous Materials: Applicants must complete and submit a Phase I ESA report if project involves: change in land use, development of uses occupied by sensitive receptors development of a net new residential unit (not including a JADU/ADU) or new construction non-residential and/or mixed use residential Subdivisions

Municipal Code Amendment

- Air Quality:
 - Control dust during construction: Implement **BAAQMD's** requirements
 - Control Construction Exhaust: >1 acre and > 2 months construction, use higher emission standard equipment
 - Require low-VOC paint in interior and all architectural coatings

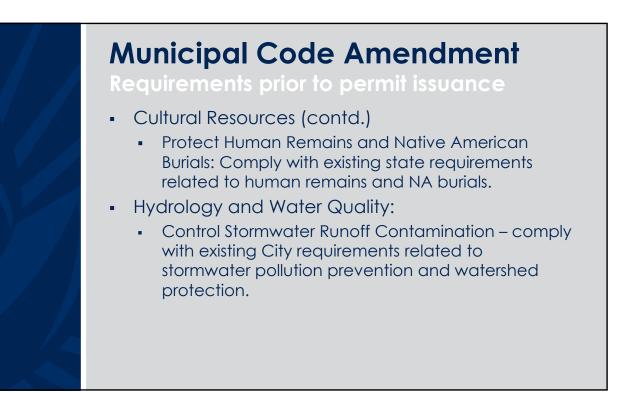


Avoid Nesting Birds during Construction: Avoid nesting season. If not avoidable, then conduct initial preconstruction survey. Homeowner/contractor if three trees of fewer impacted Biologist if more trees impacted. Avoid Special-Status Roosting Bat during Construction initial preconstruction: If building not secure, conduct initial preconstruction survey by biologist. Follow up surveys if required. Special requirements if a maternity nest is found. Birds or bats: follow recommendations of biologist.

Municipal Code Amendment

Requirements prior to permit issuance

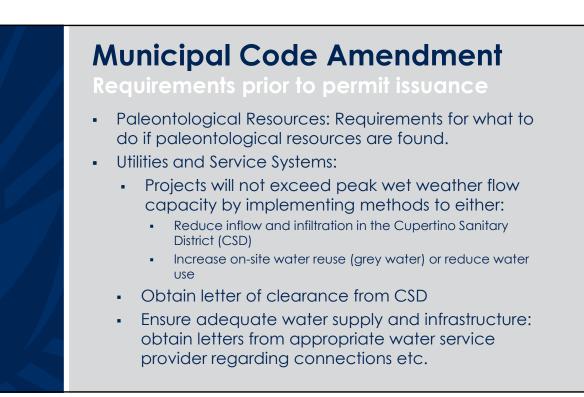
- Cultural Resources:
 - Areas with No Known Cultural Resources:
 - Provide materials to construction crew and contractors information on site indicators and laws pertaining to cultural resources. Instructions identified if cultural resources or indicators found.
 - Areas with Known Cultural Resources:
 - Retain qualified archaeologist for report on extent of resource. Consult with tribal representative. File report with CA Historical Resource Information System and City.
 - Archaeologist to determine if resource extends into project's area and whether resource eligible to be listed in CA Register of Historical Resources. If eligible, identify ways to minimize effect.





Requirements prior to permit issuance

- Noise and Vibration
 - Notice and Site Signage prior to start of any activity
 - Manage Noise during Construction: Applicant to prepare and submit Construction Noise Plan in compliance with City's Noise Control requirements.
 - Manage Vibrations during Construction: Notices required within 300 feet of project site prior to construction. Prepare and implement vibration Monitoring plan if vibratory equipment used close to sensitive receptors. Complete surveys before and after use of vibration equipment.



Violations

Violations are violations of the Municipal Code

CEQA review

- Fifth Addendum to 2014 General Plan EIR prepared:
 - Indicates no subsequent environmental review required since no substantial changes in Project or circumstances under which Project is to be undertaken that would result in new or substantially more severe environmental impacts requiring major revisions to Final EIR, and there is no new information that involves new significant environmental effects or substantial increase in severity of previously identified environmental effects that would require preparation of subsequent or supplemental EIR
 - Concluded that significant and unavoidable impacts to which proposed Project will contribute were previously disclosed and analyzed in the Final EIR;

CEQA review

- Proposed code amendments will not result in any direct or reasonably foreseeable indirect physical change in environment (CEQA Guidelines Section 15060(c)) and so do not constitute project under CEQA (CEQA Guidelines Section 15378).
- Amendments can be seen with certainty based on review of facts to have no possible significant effect on environment (CEQA Guidelines Section 15061(b)(3)).
- Proposed code amendments establish regulations to assure protection of environment, and proposed actions do not authorize construction activities or relaxation of standards that would allow environmental degradation. (CEQA guidelines Section 15308.)

PC Review

- Heard item on September 28
- Voted on a 4-0-1 (Absent: Scharf) to recommend that City Council adopt Addendum, General Plan amendments and Municipal Code Amendments.



- What is cost of Construction Management plan, Operational HRA, Phase I and Phase II reports?
 - These reports are currently required of discretionary projects . Many of the costs are generic to all projects. Hard to parse out costs for each item.
 - To ensure that ALL ministerial or discretionary projects provide these important reports necessary for environmental protection.

- Vehicle Miles Traveled: What if project does not comply with City's VMT standards? What options are available?
 - Project can implement any number of project improvements to meet the VMT standard – providing bike lanes, providing bus passes being some options that will help reduce VMT.



Council questions

- What kinds of equipment will cause vibration? It seems that almost all Projects will need to use some kind of equipment that will cause vibration, so this item covers almost all projects? How about cost and length of time to comply?
 - Specific equipment is considered vibration generating such a vibratory roller, pile driving
 - Discretionary projects are required to comply with these requirements. These are being codified to ensure that ministerial projects would be covered as well.

- Cultural Resources: Who are to be trained and who trains them?
 - Construction workers would be trained to identify indicators of cultural resources. This training is provided by contractor to construction crews about basic archaeological site indicators, the potential for discovery of archaeological resources, laws pertaining to these resources, and procedures for protecting these resources

Council questions

- Paleontological Resources: Does every project need to retain a qualified paleontologist or only after paleontological evidence has been discovered?
 - Only projects that are in areas with known cultural resources where the construction activity cannot avoid the resource would retain a qualified paleontologist.

- Utilities and Service Systems: Who are the experts that prepare the Reports? Is it standard practice that issuance of permits need "written approval from the appropriate water service provided for water connections, service capability and location/layout of water lines and backflow preventers"?
 - Utility companies will provide necessary information/report to ensure adequate service is available. The utility provider will also typically approve or provide utility service connection drawings to address location and layout of their facilities.

Council questions

• General Plan Amendments: How many of these "refinements" are new and/or "upgraded" requirements?

Though there are no changes to the intensity or density of development by these "certain refinements", does adding costs by requiring these refinements constitute adding "intensity" of development?

• There are no new or upgraded requirements. The General Plan Amendments are simply changes to clarify the City's prior intent and does not add costs to project.

31

- General Plan Amendments: How do we define "minor" modifications? Are adding significant more "costs' considered minor modifications?
 - The proposed changes General Plan Amendment changes do not add costs to a development. They are also not changes to the density, height, floor area ratio or how much development can occur on a property. These text edits are to clarify the City's intent so that the language does not run afoul of the state standards regarding objectivity.
 - None of the proposed changes results in new or more severe environmental impacts than those studied in the General Plan EIR.

Recommended Action

- That City Council:
 - Adopt resolution to adopt Addendum (Addendum No. 5 to the 2014 General Plan EIR) addressing environmental effects of the proposed changes and proposed amendments to the Cupertino General Plan and
 - 2. Introduce and conduct first reading of Ordinance for proposed amendment to Cupertino Municipal Code adding Chapter 17.04