



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
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CITY COUNCIL STAFF REPORT

Meeting: January 19, 2021

Subject

Second reading of Ordinance No. 20-2219 adopting Municipal Code Amendments to CMC to adopt bird safety development regulations to implement the Fiscal Year 2020/21 City Council Work Program items related to bird safety. (Application No. MCA-2019-004; Applicant: City of Cupertino; Location: Citywide)

Recommended Action

Conduct the Second Reading and enact Ordinance No. 20-2219 “An ordinance of the City Council of the City of Cupertino amending city code to add Chapter 19.102: Bird Safe Development standards and to amend Chapter 19.08: Definitions to implement Bird Safe regulations” (Attachment A).

Discussion

On December 15, 2020 the City Council introduced and conducted the first reading of Ordinance No. 20-2219. The motion passed on a 4-1 (No: Moore) vote. The City Council motion for adoption included the removal of draft language that exempted homes in R1 zoning outside bird sensitive areas and 100% affordable housing developments, and removal of language requiring bird safe treatments to be visible to all bird species. In addition, a minor reference correction to the name of the new Municipal Code chapter has been made on the first page of the ordinance. Attachment B reflects the redlines to the previously recommended language as shown to Council during the hearing on December 15, 2020.

The City Council posed several questions related to applicability of the ordinance. To clarify, minor replacement of glazing (such as repairing cracks or addressing maintenance issues in compliance with Chapter 19.140 – Non-conforming facilities) would not result in the application of the bird safety regulations.

Environmental Review

The proposed ordinance is exempt from environmental review under California Environmental Quality Act (“CEQA”) Guidelines section 15308 because these regulations

are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment; CEQA Guidelines section 15301 because the regulations would result in the minor alteration of existing public or private structures without any expansion of use; CEQA Guidelines section 15305 because the regulations involve minor alterations in land use limitations that do not alter permitted uses or density; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to bird safety will have no possibility of a significant effect on the environment; and that none of the exceptions in CEQA Guidelines section 15300.2 apply to the proposed ordinance.

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 Impacts

None.

Sustainability Impacts

None.

Conclusion

The ordinance will be effective thirty days after the second reading/adoption.

Prepared by: Piu Ghosh, Planning Manager

Reviewed by: Albert Salvador, Acting Director of Community Development

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Ordinance No. 20-2219

B – Redlined Ordinance indicating amendments since first reading