



## CITY ATTORNEY'S OFFICE

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## CITY COUNCIL STAFF REPORT

Meeting: June 21, 2022

### Subject

Consider conducting a first reading of an ordinance amending Municipal Code Chapter 2.84: Environmental Review Committee

### Recommended Action

Conduct the first reading and approve the introduction of Ordinance No. 22-\_\_\_\_: an Ordinance of the City Council of the City of Cupertino amending Municipal Code Chapter 2.84: Environmental Review Committee

### Discussion

The Environmental Review Committee (“ERC”) reviews all discretionary projects which are not categorically exempt or otherwise exempted from further environmental assessment to determine if the project may have a significant impact on the environment and determine whether an Environmental Impact Report is required for the project. The Committee is currently comprised of one City Council person, one Planning Commissioner, the City Manager, the Director of Public Works, and the Director of Community Development or their designated alternates. The structure of Cupertino’s Environmental Review Committee, which includes both City staff and elected and appointed officials, is uncommon and possibly unique among jurisdictions in California.<sup>1</sup>

On February 15, 2022, the City Council directed staff to prepare an amendment to the Municipal Code Chapter 2.84 to change the composition of the Environmental Review Committee, such that it would be comprised of two members of the City Council and one member of the Planning Commission. The City Council also referred to the Committee the question of what scope of subject matter the Committee should review.

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<sup>1</sup> Among cities and counties in California that have committees with a jurisdiction focused on the environmental review process, the standard composition is a committee of staff members appointed from different departments. No cities or counties identified rely on a committee with membership similar to Cupertino’s ERC.

The proposed Ordinance would make changes to the composition of the Environmental Review Committee consistent with the prior direction of Council. In addition, the proposed Ordinance includes minor non-substantive revisions to the appeals provision of the Ordinance.

Sustainability Impacts

No impact.

Environmental Impacts

The adoption of the proposed Ordinance is not a project under the requirements of the California Environmental Quality Act, Public Resources Code Section 21000 *et. seq.*, and the State CEQA Guidelines, California Code of Regulations Section 15000 *et. seq.* (collectively, "CEQA"), because it has no potential for resulting in physical change in the environment. Even if the project were found to be a project under CEQA, it would be 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 proposed action, the adoption of the proposed Ordinance, would have no or only a de minimis effect on the environment.

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Prepared by:

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Reviewed by:

Dianne Thompson, Assistant City Manager

Approved for Submission by:

Jim Throop, City Manager

Attachments:

A - Draft Ordinance