



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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PLANNING COMMISSION STAFF REPORT

Agenda Item No. 2

Agenda Date: October 11, 2016

SUBJECT:

Consider amendments to Chapter 19.08, Definitions, of the Municipal Code to add definitions of “financial institutions” and “banks” that expressly exclude payday lending and check cashing businesses with the intent to disallow such uses from operating within the City of Cupertino. (Application No.: MCA-2016-04; Applicant: City of Cupertino; Location: City-wide)

RECOMMENDATION

Staff recommends that the Planning Commission adopt a Resolution recommending that the City Council adopt the CEQA determinations and further approve an ordinance amending Section 19.08.30 of Chapter 19.08, Definitions, of the Cupertino Municipal Code adding definitions of “financial institutions” and “banks” that expressly exclude payday lending and check cashing businesses with the intent to disallow such uses from operating within the City of Cupertino (see Attachment 1.)

DISCUSSION

Background

In March, the Public Interest Law Firm (PILF) of the Law Foundation of Silicon Valley wrote a letter to Mayor Chang on behalf of the Coalition Against Payday Predators (CAPP) requesting that the City consider an ordinance to prevent the proliferation of payday lenders in Cupertino (see Attachment 2.) CAPP is a coalition of community-based organizations in Santa Clara County that has come together to advocate for county-wide policies that would limit payday lending establishments.

Payday loans are lending transactions in which a borrower provides a lender with a postdated check and receives immediate cash from the lender. The borrower's check

includes not only the principal loan amount, but also any interest and fees charged by the lender. The lender then cashes the borrower's check on the borrower's next payday unless the loan has been repaid by that date.

According to research shared by CAPP, payday lenders target people in desperate need of cash with ads for short-term credit products for use in emergencies with unusually high fees that end up trapping them in a cycle of crippling debt and poverty. The data shows that:

- Payday loans carry average APRs of over 360%;
- Payday loan borrowers are indebted for an average of five months per year; and
- The average payday loan borrower takes out eight loans per year.

The State currently regulates maximum loan amounts, fees, and other aspects of how payday lenders operate. However, local jurisdictions can legally enact local policies to restrict payday loan businesses from operating within their communities. The CAPP is urging local agencies to adopt ordinances to prevent the proliferation of payday lenders. Locally, the cities of San José, Sunnyvale, Gilroy, Morgan Hill, Campbell, and Los Altos, as well as the County of Santa Clara, have already adopted regulations concerning payday lenders.

On September 20, 2016, Council enacted Interim Urgency Ordinance No. 16-2152, an interim urgency ordinance of the City Council of the City of Cupertino establishing a moratorium on the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Cupertino pending completion of an update to the City's Zoning Code.

Analysis

Payday loan businesses are not defined separately from other types of financial institutions or banks under the City's Municipal Code, but have been considered analogous to these types of uses.

In order to prohibit the establishment, expansion or relocation of such businesses in zoning districts where financial institutions and banks are allowed within the City, definitions for "financial institutions" and "banks," which specifically exclude payday lending and check cashing businesses, are being added to the Zoning Code with this Municipal Code Amendment. By excluding such uses from the definitions, payday lending and check cashing businesses would be disallowed from operating within the city. Currently, there are no payday lenders operating in the City.

Noticing

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>five days prior to hearing</i>)▪ Posted on the City of Cupertino's Web site (<i>five days prior to hearing</i>)

ENVIRONMENTAL IMPACT

The proposed Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. 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 of a significant effect on the environment

NEXT STEPS

The recommendations made by the Planning Commission will be forwarded to the City Council for consideration.

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ATTACHMENTS

1. Draft Resolution of the Planning Commission recommending adoption of the Draft Ordinance
2. Letter from Coalition Against Payday Predators (March 3, 2016)