



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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PLANNING COMMISSION STAFF REPORT

Agenda Item No. ____

Agenda Date: October 25, 2016

SUBJECT:

Consideration of Municipal Code Amendments to amend Chapter 8.07, Beekeeping, and Table 19.20.020 of Chapter 19.20, Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones, regarding the regulation, location, and the keeping of bees in the City and to make other conforming changes in Table 19.20.020 for consistency; (Application No. MCA-2016-03; Applicant: City of Cupertino; Location: Citywide).

RECOMMENDATION:

Staff recommends that the Planning Commission;

- 1) Find that the proposed actions are exempt from CEQA;
- 2) Adopt the draft resolution recommending the City Council introduce and adopt "An Ordinance to amend Chapter 8.07, Beekeeping, and Table 19.20.020 of Chapter 19.20, Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones, regarding the regulation, location, and the keeping of bees in the City and to make other conforming changes in Table 19.20.020 for consistency." (Attachment 1).

BACKGROUND:

At the March 15th, 2016 City Council meeting, members of the Cupertino's Rolling Hills 4-H Club (Rolling Hills 4-H) and the Santa Clara Valley Bee Guild (SCVBG) presented on the importance of bees to the environment and requested Council to review existing restrictive regulations to promote the keeping of bees in the City. Council directed staff to evaluate the current regulations and draft an ordinance setting reasonable regulations to allow for more residents to participate in urban beekeeping.

Currently apiaries (an area where one or more hives are located) are permitted, as a principal use, in Agriculture (A) Zoning Districts and as a conditional use in Agricultural-Residential (A-1) Zoning Districts. They are allowed as accessory uses in other zoning

districts. However, current regulations require that apiaries must be located at least 1,000 feet from the nearest residence, church, school, public building, corral or water area in the corral and at least 300 feet from any public road, effectively prohibiting beekeeping activities in much of the urban parts of the City.

Pollinators, such as bees, butterflies, and bats, are universally recognized as being critical to environmental health, food and agriculture economies, and human survival. In addition, in the last decade, the phenomenon known as colony collapse disorder (CCD), where bee populations are declining at precipitous rates due to multiple factors, such as pesticide applications, parasites, habitat loss, and diseases, all contributing to the demise of bees, is also more widely recognized. These same factors also affect native bee species and other pollinators. Advocacy groups, neighborhood coalitions, local governments, and even the national government are attempting to address the issues behind the plight of the bee (See Attachment 3).

The proposed changes to Chapter 8.07, Beekeeping, are a result of examining best management practices (BMPs) of beekeeping, the requirements of adjacent cities and highlighting the most basic requirements that will promote responsible beekeeping with the intent of encouraging urban beekeeping in the City. In addition, minor changes have been proposed to Chapter 19.20, Permitted, Conditional and Excluded uses in Agricultural and Residential zones, for clarification purposes (See Attachment 4).

DISCUSSION

Chapter 8.07 - Beekeeping

In addition to the addition of a Purpose Section (Section 8.07.010), the following changes have been made to each of the other sections of Chapter 8.07.

Section 8.07.020 - Definitions

Definitions have been:

1. Consolidated to be consistent with the organization of definitions in other chapters of the Municipal Code;
2. Reworded for clarity and brevity; and
3. Added to classify “apiaries” into two categories - the keeping of bees as an agricultural and principal use; and as an urban and accessory use.

Section 8.07.030 – Location, Number, Maintenance and Registration

Location and Number

The proposed ordinance clarifies that urban beekeeping (allowed as a compatible accessory use) is permitted as an accessory use; agricultural apiaries, where beehives are used as part of a large-scale production farm, as a principal use, will continue to be limited to the agricultural (A) and agricultural-residential (A-1) zones.

To allow beekeeping on smaller, more urban, properties and to balance that with concerns about the potential of negatively impacting adjacent property owners, the current setbacks are proposed to be amended as follows:

- 20' from any front property line and any public or private streets; and
- 10' from any side or rear property lines or driveway easements. Furthermore, apiary owners may obtain consent from adjacent property owners to allow for reduced side and rear setbacks.

Number

In order to encourage beekeeping and reasonably apply beekeeping standards, a limit of two hives is proposed for lots with less than 5,000 square feet since residential lots in the R1 zoning district under this size are considered sub-standard and therefore, an appropriate threshold for restricting the number of hives. This limit is consistent with limits other cities have placed on urban beekeeping on small residential lots.

Maintenance

The ordinance currently has a requirement for the provision of adequate water for bees on the property where the apiary is located to discourage them from frequenting neighbor's pools or birdbaths. This requirement has been clarified to require the water supply to be a constant supply of fresh water to ensure water quality for the health of the bees and to discourage breeding grounds for mosquitoes.

Additionally, to ensure that a hive does not become a public nuisance upon being abandoned by its beekeeper, the ordinance proposes to require dismantling of unused and/or abandoned apiaries

Registration

In order to document beekeeping activity, provide future analytics on beekeeping efforts, and protect beekeepers through the Pesticide Notification program, beekeepers must register the following with the local county agricultural commissioner as required by state law:

- Apiaries being moved across county lines within five days of starting the move; and
- The location and number of apiaries located in the county annually.

Since neither registration nor the form is a City requirement, in the proposed ordinance, the existing language is simplified with a cross-reference to state law.

Section 8.07.040 - Nuisance

The proposed ordinance also requires all beekeepers to be responsible for properly maintaining their apiaries in conformance with the regulations and to ensure that their activity does not become a public nuisance.

Section 8.07.050 - Enforcement

The proposed ordinance consolidates two existing sections on notices and penalties into an Enforcement section for better readability and simplified the language to reference other existing chapters.

Chapter 19.20, Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones

Apiaries are considered an accessory use in all zoning districts, but a reference to apiaries as a principal use in Table 19.20.020 may make interpretation confusing; therefore, staff is proposing minor changes to Table 19.20.020:

1. Explicitly referencing the Accessory Facilities/Use section of the chapter for urban beekeeping to be considered an accessory use; and
2. Allowing apiaries on Agricultural-Residential (A-1) zones as a permitted use instead of a conditional use.

In addition, in Table 19.20.020, applicable cross-references to existing sections of the Code have been added and language has been clarified for internal consistency.

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 (at least 10 days prior to hearing) ▪ Display ad placed in newspaper (at least 10 days prior to hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (five days prior to hearing) ▪ Posted on the City of Cupertino's Web site (five days prior to hearing)

Additional noticing was conducted in the form of notices and updates to media avenues including Facebook, the City website, and the monthly Cupertino Scene print publication. Since the publication of the resources on the City's webpage (and other digital media) in late July, and in the Cupertino Scene and Cupertino Courier in September, staff received public comments through e-mail that were positive and in support of amending regulations to permit more residents to keep bees. Additionally, staff met with members of the Cupertino's Rolling Hills 4-H Club to evaluate the City's existing ordinance, analyze ordinances of other cities in the region and nationwide, and assess the draft ordinance in August and September. The positive feedback and

constructive comments were incorporated and the draft ordinance was posted on the City's website at the end of September, with updates in mid-October.

All correspondence received prior to the publishing of this report are included in Attachment 5. No other public comments have been received on this subject as of October 19, 2016.

ENVIRONMENTAL ASSESSMENT

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 but also not limited to the class of projects which have been determined not to have a significant effect on the environment under section 15301 (Existing Facilities), section 15302 (Replacement or Reconstruction), section 15303 (Construction or Conversion of Small Structures), and section 15308 (Actions by Regulatory Agencies for Protection of the Environment).

NEXT STEPS

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

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Reviewed by:

Approved by:

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ATTACHMENTS

- 1 – Draft Resolution
- 2 – Redlined Ordinances
- 3 – Article: Endangered Hawaiian Bees
- 4 – Beekeeping Ordinance Comparison Chart
- 5 – E-mail Correspondence