



**OFFICE OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

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## **PLANNING COMMISSION STAFF REPORT**

**Agenda Date:** March 14, 2017

### **SUBJECT**

Municipal Code Amendment to develop an application process for Single-Story Overlay Zoning Districts in single-family residential (R1) zones. (Application No(s): MCA-2017-02; Applicant(s): City of Cupertino; Location: citywide)

### **RECOMMENDED ACTION**

That the Planning Commission recommend that the City Council:

1. Find that the proposed actions are exempt from CEQA; and
2. Adopt an ordinance amending Title 19, Zoning, of the Cupertino Municipal Code including, but not limited to, Chapter 19.12, Chapter 19.20, and Chapter 19.28. (Attachment 1)

### **DISCUSSION:**

#### **Application Summary:**

Municipal Code Amendment to Title 19, Zoning, of the Cupertino Municipal Code, to allow the creation of Single-Story Overlay Zones in single-family residential zoning districts.

#### **Analysis:**

##### ***Background***

Currently, the City of Cupertino allows the development of two-story homes that meet applicable regulations, in addition to meeting the necessary findings to approve a Two-Story permit, in the Single-Family Residential (R-1) Zones. However, there are sometimes concerns from neighbors over two-story homes related to building heights, neighborhood compatibility and impacts to privacy and light.

The establishment of overlay zones or districts has typically been initiated by City Council at the request of residents. Currently, the City has the following overlay districts in R1 (Single-Family Residential) zones. These include:

- Single-Story Overlay districts, where an “i” suffix may be added to the end of the R1 zoning designation to indicate that development of new homes is limited to one story. The City currently has four such zones. The current regulations for “i” overlays limit building height to a single story (not to exceed 18 feet in height) and a second story may be permitted through a Conditional Use Permit. It should be noted that staff is not proposing making any changes to those regulations;
- Eichler District, where an “e” suffix may be appended to the R1 zoning designation to indicate that new development, alterations or additions in this district must adhere to specific design standards. The City currently has one such district;
- Semi-Rural Agricultural District, where an “a” suffix may be appended to the R1 zoning designation to indicate that new development, alterations or additions in that district must adhere to specific regulations. The City currently has one such district.

In the summer of 2016, the City was asked by property owners in the Creston-Pharlap neighborhood about allowing their neighborhood to create a Single-Story Overlay district, as a result of concerns related to the approval of a complying two-story home in their neighborhood. While Single Story Overlay districts already exist in the City, the process for their creation, should an applicant wish to initiate an application, is not clear. The establishment of districts is different from other re-zoning processes in that it involves multiple properties, in addition to those requesting the Overlay District. As such, it can result in disagreements among property owners and the lack of a clear process may create confusion about how and when property owners can provide input.

In order to clarify the process and ensure that all property owners in a proposed district understand the process and have the ability to provide input on its creation, staff took the request to the City Council on August 2, 2016 and recommended that a process for their creation be implemented. The City Council directed staff to develop an applicant initiated process for the review and processing of requests for Single-Story Overlay Districts in Single Family Residential (R-1) Zones (including guidelines and related Zoning Ordinance amendment(s)).

The proposed process (See Attachment 2), discussed further below, is based on a review of processes adopted by neighboring jurisdictions of Los Altos, Palo Alto, Sunnyvale and Mountain View, and the existing City processes for community driven petitions (e.g. Permit Parking and Rural/Semi-Rural designation for determination of street improvements (See Attachment 3.))

This staff report first summarizes the proposed process and then discusses various characteristics and proposed thresholds of the process. Currently, the draft ordinance includes staff's recommendations. If the Planning Commission desires, it could consider amendments to the proposal in its recommendation for the City Council's consideration.

### ***Proposed Overlay Process***

The proposed process for establishing or removing a Single-Story Overlay District can be summarized as follows:

1. An applicant would circulate a petition within the area where the Single-Story Overlay District is being proposed.
2. If the petition is signed by a certain percentage of the owners within the proposed District, the applicant would submit an application to the City.
3. City staff would begin working on the application including a review of typical zoning requirements such as ensuring compliance with established regulations and any related environmental review.
4. The application would include a formal mail-in voting process for the property owners with each developable lot getting one vote.
5. An application would only move forward and be scheduled for public hearings with Planning Commission and City Council for final determination if a majority of a neighborhood was in agreement with creating the single-story overlay.

In order to help applicants understand the process, staff will also provide a guideline for submittal and the process. A draft outline of the guideline is attached (Attachment 4.)

### ***Characteristics and Thresholds***

#### ***Overlay District Boundary and Characteristics:***

Based on a review of the neighboring jurisdictions, a requirement to make the boundaries of the proposed Single-Story Overlay District correspond to natural or man-made features (such as, streets, waterways, existing zoning boundaries etc.) to define an identifiable neighborhood is standard practice. In addition, requiring that a majority of the existing homes in the proposed district be single-story, helps in the creation of a definable district that has some common characteristics. The proposed ordinance requires that at least 75 percent of the existing homes in the proposed Overlay District, with boundaries corresponding to natural or man-made features, be single story.

All the cities and petition processes reviewed require the identification of discernable boundaries. In addition, the City of Mountain View requires 51 percent, while the cities of Palo Alto and Sunnyvale require 80 percent and 75 percent of the existing homes in the proposed Overlay District to be single story. However, the City of Los Altos does not

have a requirement that a majority of the existing homes in the proposed Overlay District be single-story.

*Petition:*

The draft ordinance requires that the petition circulated by the applicant within the proposed Overlay District include a map of the proposed Single-Story Overlay District, property addresses, property owner name(s), signature(s) and contact information of the petitioner (in case of questions).

*Original Petition Thresholds:*

The draft ordinance requires that in order for an application to be eligible for submission, a minimum of 66-2/3 percent (or two-thirds) of the properties in the proposed District must sign the original petition. The City of Los Altos requires 50 percent of the property owners to proceed, while the cities of Palo Alto, Mountain View and Sunnyvale require 70 percent, 50 percent and 55 percent respectively. The proposed threshold is consistent with the current threshold required for the City's permit parking and rural/semi-rural designation petition processes.

*Mail-in Ballot Threshold:*

Once an application is made, based on the above qualifications, mail-in ballots would be sent out and collected by the City. The cities of Los Altos and Mountain View have a requirement that two-thirds of the ballots received by the City must be in favor of the proposal for proceeding to a public hearing. Neither the cities of Sunnyvale and Palo Alto, nor Cupertino's permit parking and rural/semi-rural designation petition processes, have a mail in ballot provision.

The draft ordinance proposes that a minimum of 66-2/3 percent (or two-thirds) of the properties within the proposed District must vote in favor of the proposal in order for the application to move forward and be scheduled for hearings. Staff is recommending this so that the City has an independent process whereby ballots are sent to the property owners in the proposed District and received back from each property owner by a deadline.

*Deadline for Mail in Ballot Receipt:*

While the City of Los Altos allows four (4) weeks to return ballots to the city, the City of Mountain View (which does not have any codified requirements on this) allows, as a matter of practice, five (5) weeks to return ballots on this issue to the city. The proposed regulations recommend a six (6) week deadline for the ballots to be received by the city. In order to ensure that property owners have adequate time to respond to the mail in

ballot for the implementation of the Single-Story Overlay District, an extended deadline is recommended.

*Site Signage:*

The City currently requires, that in addition to the public hearing notices required for zoning applications, that site signage be placed in the front yard of the property(ies) being re-zoned. However, since this process would establish a zoning district, an area larger than a few properties, the draft ordinance proposes that site signage be placed in the closest yard at the boundaries of the proposed Overlay District. For such an application, multiple site signs may be required.

*Application Fees and Deposits Fees:*

Staff is reviewing the application fees and deposits required by the other cities, and will provide a recommendation to City Council.

## NOTICING AND COMMUNITY OUTREACH

The following table is a brief summary of the noticing for this project:

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

In addition, Staff held a Public Outreach Meeting on December 7, 2016. Two (2) members of the public attended the meeting. They had an opportunity to view a draft of the process and were supportive of the proposed process.

The City has also prepared a list of Frequently Asked Questions that is available online and attached as Attachment 5.

## ENVIRONMENTAL REVIEW

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA, Section 15063 (b) (3)).

## NEXT STEPS

The recommendations made by the Planning Commission will be forwarded to the City Council for consideration. Upon a final decision by the City Council, the ordinance will need a second reading at a subsequent hearing. The ordinance will be effective 30 days after the second reading.

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### **ATTACHMENTS**

1. Draft Resolution of the Planning Commission recommending adoption of the Draft Ordinance
2. Redline document indicating changes in Chapters 19.12, 19.20, and 19.28
3. Comparison of Neighboring Jurisdictions Single-Story Overlay District, City of Cupertino Semi-Rural Designation, and City of Cupertino Permit Parking processes
4. Draft Guidelines for Submittal of an Application for Single-Story Overlay District
5. Frequently Asked Questions