

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION
OF THE CUPERTINO PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL AMEND PROCEDURES FOR
PROCESSING OF GENERAL PLAN AMENDMENT APPLICATIONS

The Planning Commission recommends the City Council:

1. Find that this Resolution is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") 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.
2. Adopt the proposed Resolution, with the findings reflected in the proposed Resolution, which the Planning Commission makes as though set forth in their entirety in this Resolution, in substantially the form as shown in said Exhibit entitled:

A RESOLUTION OF THE CITY OF CUPERTINO
AMENDING PROCEDURES FOR PROCESSING OF
GENERAL PLAN AMENDMENT APPLICATION

PASSED AND ADOPTED this 12th day of January 21, 2021, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Benjamin Fu
Director of Community Development

Ray "R" Wang
Acting Chair, Planning Commission

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF CUPERTINO
AMENDING PROCEDURES FOR PROCESSING OF
GENERAL PLAN AMENDMENT APPLICATION**

WHEREAS, upon evaluating various programs to manage development to address development issues in light of concerns about rapid growth and the impacts of such growth overwhelming the City's ability to accommodate it, as well as the substantial impacts of development on quality of life in the community, on September 1, 2015 the City Council of the City of Cupertino adopted a resolution for procedures for processing of General Plan Amendment Applications; and

WHEREAS, California Government Code Section 65358(a) provides that: "If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body...."; and

WHEREAS, each mandatory element of the City's General Plan may be amended no more than four times during any calendar year and, subject to that limitation, "an amendment may be made at any time, as determined by the legislative body" (Cal. Gov. Code 65358(b)); and

WHEREAS, the City's Municipal Code does not address the timing or initiation of general plan amendments; and

WHEREAS, the City desires to set forth an orderly process, in accordance with its legislative discretion, to consider General Plan amendments and ensure that proposals are fairly considered in light of the City's goals and concerns about growth; and

WHEREAS, the City has prepared General Plan Amendment Procedures to provide a process for preliminary review of proposed amendments; and

WHEREAS, the procedures include, among other things: (1) notice provisions to ensure the public has an opportunity to comment; (2) evaluation criteria to ensure general plan amendments that move through the application process are in the public interest and meet the City's goals for development, including provision of community amenities; and (3) requirements for requesting preliminary review of a proposed General Plan amendment; and

WHEREAS, at the July 7, 2020 City Council Study Session, Council provided direction to staff to amend the General Plan Amendment Authorization process; and,

WHEREAS, with Resolution No. ____ the Planning Commission has recommended on a __-__-__ vote that the City Council adopt the resolution in

substantially similar form as presented in Planning Commission Resolution No. ____;
and

WHEREAS, on February 2, 2021 upon due notice, the City Council has held at least one public hearing to consider the Planning Commission's recommendation and the resolution; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino hereby adopts the amended General Plan Amendment Procedures attached hereto, subject to minor revisions as may be made by the City Manager in consultation with the City Attorney. The City Council hereby authorizes City staff to process proposed General Plan amendments in accordance with the General Plan Amendment Procedures and to take any and all other actions necessary to implement the procedures.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") 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. CEQA applies only to projects which have the potential of 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 amendments to the City Code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this ____ day of _____, ____, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor	_____ Date
---------------------------------------	---------------

City of Cupertino	
ATTEST:	
_____	_____
Kirsten Squarcia, City Clerk	Date
APPROVED AS TO FORM:	
_____	_____
Heather Minner, City Attorney	Date

PROCEDURES FOR PROCESSING OF GENERAL PLAN AMENDMENT APPLICATIONS

1. Background/Goals

Like many communities throughout the State, Cupertino is concerned about balancing the benefits of economic development with the effects of rapid growth. The impacts of such growth can overwhelm the City's ability to accommodate it and affect the quality of life in the community.

The goal is to create a procedure for the consideration of future General Plan amendments that will encourage orderly development of the City and ensure that facility/service and quality of life standards can be met for the community. These procedures only address amendments requested by private parties. The City may initiate General Plan amendments when it deems necessary, such as, to conform to State law or to ensure consistency within the General Plan.

2. Procedure

- a. The Council will consider the timing and processing of General Plan amendments once a year.
- b. In order to be considered for processing, applicants will be required to apply for authorization to process a General Plan amendment by the third Monday in January of each year.
- c. In the quarter following the due date (generally), the Planning Commission will hold a publicly noticed meeting to preliminarily review the list of proposed General Plan amendments and provide a recommendation to Council.
- d. Generally within 45 days after the Planning Commission's meeting, the Council will hold a publicly noticed meeting to preliminarily review the proposed General Plan Amendments and consider the Commission's recommendation.
- e. In addition to noticing required for public meetings, a city-wide postcard shall be mailed prior to the Planning Commission meeting.
- f. Each application will be preliminarily evaluated for the following:
 - (i) General Plan goals achieved by the project, including, but not limited to, the following:
 - (1) Site and Architectural design and neighborhood compatibility

- (2) Brief description of net fiscal impacts (sales tax, transient occupancy tax or other revenue provided by the project) including a diverse economic base
- (3) The provision of affordable housing
- (4) Environmental Sustainability
- (5) Traffic Impacts
- (6) Expected student generation, if applicable.
- (ii) General Plan amendments (and any other zoning amendments or variances) requested.
- (iii) Proposed voluntary community amenities, as defined in Section 3, if any.
- (iv) Staff time and resources required to process the project.
- g. Based on the above evaluation the Council will consider which projects, if any, will be authorized to proceed with a General Plan amendment application. The decision does not in any way presume approval of the amendment or project. It only authorizes staff to process the application, but the City retains its discretion to consider the application in accordance with all applicable laws, including the California Environmental Quality Act ("CEQA") and the City's zoning laws and ordinances. Consideration of the application will be in accordance with the City's Municipal Code and regulations.
- h. Staff will begin processing the General Plan amendment applications per Council direction. A project that applies for processing should be in substantial compliance with the project authorized by Council.
- i. Proposals not authorized by the Council at the first meeting (per 2.d. above) may be resubmitted with minor amendments, not more than once, within six (6) months. Such projects will be processed in the manner outlined in subsections (c) – (g) above.

3. Voluntary Community Amenities

- a. For purposes of this policy, voluntary community amenities are defined as facilities, land and/or funding contributions to ensure that any development with a General Plan amendment application enhances the quality of life in the City, including enhancements of the following:
 - (i) School resources

- (ii) Public open space, such as parks and trails
- (iii) Public facilities and utilities, such as library, community center or utility systems
- (iv) Transportation facilities with an emphasis on city-wide bicycle, pedestrian and transit improvements, such as community shuttles, pedestrian and bicycle bridges, and transit centers/stations

4. Preliminary Review Requirements

- a. Preliminary documents that would be typically required for the type of application that is requested, such as site plans, preliminary landscape plans, elevations, cross sections, preliminary grading plans and proposed materials.
- b. A description, including graphics, of the General Plan amendment(s) and land use approvals required, if any. The description should include diagrammatic information as necessary to clearly explain the request.
- c. An explanation of how the proposed project meets the overall goals of the General Plan and the benefits/impacts of the project to the community and its quality of life.
- d. A brief summary of net fiscal impacts.
- e. In order to provide the public with early notice and opportunity to provide input, to the extent the proposed project includes voluntary community amenities, as defined in Section 3 above, of a type typically memorialized in a development agreement, the applicant should include a Term Sheet explaining the proposed terms. The Term Sheet will be memorialized in a Development Agreement as part of the project, if approved.

5. Modification to the General Plan Amendment Requests

- a. Only one (1) application for modifications that increase the number or intensity of General Plan Amendments may be made per previously authorized project.
- b. The revised proposal shall be considered at a publicly noticed meeting by the Council based on the evaluation criteria listed in subsection 2(f) above. Noticing for the meeting shall include citywide postcard mailing.
- c. The Council's decision does not in any way presume approval of the amendment or project. It only authorizes staff to process the revised proposal, but the City retains its discretion to consider the application in accordance with

all applicable laws, including the California Environmental Quality Act ("CEQA") and the City's zoning laws and ordinances. Consideration of the application will be in accordance with the City's Municipal Code and regulations.

1325782.1