



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

ENVIRONMENTAL REVIEW COMMITTEE STAFF REPORT

April 15, 2021

Subject

A review of the scope of the Environmental Review Committee (ERC) in Cupertino

Recommended Action

Review analysis of the scope of the ERC in Cupertino, provide any input, and consider providing a recommendation to Council on the revision of the scope of the ERC

Background

The Environmental Review Committee (ERC) was codified in August 1990. During the first year, the ERC members included one councilmember, one Planning Commissioner, the City Manager, the Director of Public Works, and the Director of Community Development, or their designated alternates. In 1991, the City Council adopted an ordinance to revise the composition of the ERC to include an at-large, non-voting citizen member that is appointed by the Chair.

The ERC's primary function is to review public projects in accordance with the California Environmental Quality Act (CEQA) to determine whether a project may or may not have a significant effect on the environment by evaluating the preliminary analysis, also known as the Initial Study. If the ERC determines that the project does not have a significant effect on the environment, then the ERC recommends that the Council grant the project a negative declaration, which would not require the project to conduct further environmental review. If the ERC finds that a project may have a significant effect on the environment, then the ERC will require the preparation of an Environmental Impact Report (EIR). The City Manager and staff are responsible for coordinating the preparation of the EIR including selecting the preparer and specifying the major areas of concern.

As part of the FY 2020-21 City Work Program, Council requested that staff review the scope of the ERC and research best practices in other cities.

Discussion

The duties, powers, and responsibilities of the Environmental Review Committee can be found in Cupertino's Municipal Code Chapter 2.84 (Attachment A) and are outlined here:

A. All discretionary projects which are not categorically exempt or otherwise exempted from further environmental assessment, shall be forwarded to the Environmental Review Committee for evaluation under the California Environmental Quality Act.

B. The Committee shall evaluate the initial study of a proposed project to determine whether the project may or may not have a significant effect on the environment.

C. If a determination is made that the project will not have a significant impact on the environment, the Committee will recommend that the final reviewing authority (decisionmaker) grant a negative declaration.

D. If a determination is made that the project may have a significant impact on the environment, the Committee shall require preparation of an environmental impact report (EIR). The major areas of concern, the selection of the preparer and the preparation of the EIR shall be coordinated by the ERC not including the City Council and Planning Commission members.

The ERC is scheduled to meet regularly twice a month; however, meetings are frequently canceled since the City does not have many projects for which a negative declaration or EIR are required. From 2014-2020, the ERC has held 25 meetings in total, averaging about 4 meetings a year.

In addition to reviewing Cupertino's Environmental Review Committee, the 14 other cities in Santa Clara County were also reviewed to determine best practices in potential scope and the environmental review process. Research showed that Cupertino is the only City in Santa Clara County with an Environmental Review Committee, or a specific body that makes a recommendation on whether a project needs a negative declaration or an Environmental Impact Report. All 14 other cities in Santa Clara County specified that either the planning commission, staff, and/or Council are primarily responsible for environmental review. Attachment B highlights the environmental review process in other cities in Santa Clara County.

All of the cities reviewed have similar processes in place where staff conducts the environmental review and prepares appropriate environmental documents for consideration by either Planning Commission and/or City Council. In these situations, usually planning staff, in consultation with environmental consultants or experts as needed, make the determination of whether a project needs an EIR or a Negative Declaration. Then staff facilitates the process by hiring consultants to create the EIR and ensure applications are complete before it reaches the Planning Commission for a public hearing or a final decision from Council.

Recommendation

It is recommended that the ERC review this report and provide any input on the scope of the Environmental Review Committee and consider providing a recommendation to Council on the revision of the scope of the ERC.

Prepared by: Astrid Robles, Management Analyst

Reviewed by: Katy Nomura, Assistant to the City Manager

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Municipal Code Chapter 2.84: Environmental Review Committee

B – Table of Environmental Review Process in Other Cities