

DRAFT RESOLUTION NO. 15-078

**OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADOPTING FOR PROCEDURES PROCESSING OF
GENERAL PLAN AMENDMENT APPLICATIONS**

WHEREAS, on December 4, 2014, the City Council adopted an amended General Plan titled Community Vision 2040, which reflects community input, regulatory changes, best practices, and the desire to achieve community-building, sustainability, economic, and fiscal objectives; and

WHEREAS, the City has been 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; and

WHEREAS, as part of its evaluation process, the City has considered Community Business Incentive Zoning (CBIZ) and Growth Management programs; and

WHEREAS, while CBIZ and Growth Management programs can be effective in metering growth and providing for community benefits, they can be difficult to administer, are limited by legal requirements and do not provide the flexibility for managing growth and its substantial impacts on the community; 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, rather than pursue a CBIZ or Growth Management program, 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 City Council conducted a public hearing on the proposed procedures on May 19, 2015, and the Council directed staff to provide more information and options at a future meeting; and

WHEREAS, the City held an Open House on the General Plan Amendment Process on June 30, 2015, and the City Council held a Study Session after the Open House; and

WHEREAS, at the Study Session, the Council directed staff to look at options that allowed for applications twice a year and that provided a reevaluation process; 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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino hereby adopts the 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.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino, the 1st day of September, 2015, by the following vote:

Vote: Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Grace Schmidt, City Clerk

Rod Sinks, Mayor, City of Cupertino

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 twice a year, approximately every six months.
- b. In order to be considered for processing, applicants would be required to apply for authorization to process a General Plan amendment by a designated date.
- c. In the quarter following the due date (generally), the Council will hold a publicly noticed meeting to preliminarily review the list of proposed General Plan amendments.
- d. Noticing – City-wide postcard and public meeting requirements.
- e. 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) Sustainability
 - (ii) List of General Plan amendments (and any other zoning amendments or variances) requested.
 - (iii) A list of voluntary community amenities, as defined in Section 3, if any.
 - (iv) Staff time and resources required to process the project.
- f. 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.

- g. 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.
- h. Upon Council direction, applicants may submit revised application/additional information within 30 days. Such projects will be considered by the Council after staff review.
- i. If a proposal is not authorized for processing after the initial review or the additional submittal, the applicant or its successor-in-interest must wait one year to submit an additional application for the same or similar project.

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 center/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. To the extent the proposed project includes voluntary community amenities 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.