



OFFICE OF COMMUNITY DEVELOPMENT

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CITY COUNCIL INFORMATIONAL MEMORANDUM

Date: November 14, 2024
To: Cupertino City Council
From: Piu Ghosh, Planning Manager
Luke Connolly, Assistant Director of Community Development
CC: Benjamin Fu, Director of Community Development
Pamela Wu, City Manager
Chris Jensen, City Attorney

Re: Current notification method for general plan amendments and zoning ordinances on parcels, preliminary applications, and project proposals

Background

At the September 4, 2024, City Council meeting, Councilmember Chao requested an informational memorandum regarding notification methods for general plan amendments, zoning ordinances on parcels, preliminary applications and project proposals. This informational memorandum summarizes the noticing provisions of the Municipal Code and noticing practices of the City.

Summary

Noticing requirements for projects, including General Plan Amendments, Rezoning of parcels and project proposals are codified in the Chapter 19.12, Administration, of the Cupertino City Municipal Code in subsection 19.12.110 and 19.12.030. No noticing is conducted or required for preapplications.

Analysis

General Plan Amendments (GPAs)

Section 19.12.110 and 19.12.030 require the City to follow the requirements of Government Code. Sections 65350-65362. These sections of the Government Code require noticing pursuant to Government Code Section 65090, and if a GPA would affect the permitted uses or intensity of uses of real property, additionally, notice is

required pursuant to Section 65091. These requirements for notice can be summarized as follows:

- Government Code Section 65090: notice must be posted once in at least one newspaper of general circulation within the City at least 10 days prior to the hearing. This Section also allows processes in the event a newspaper of general circulation is not available and allows additional noticing, if desired.
- Government Code Section 65091: If the GPA affects the permitted uses or intensity of uses of real property, in addition to notices pursuant to section 65090, notice must be mailed to the property owner, his or her representative and project applicant, services providers (such as water, sewer, schools etc.), persons that may have mineral rights to the property in question, and residents within 300 feet of the property. However, if the number of notices required for the action is over 1,000, a display advertisement of at least one-eighth page may instead be placed once in at least one newspaper of general circulation.

In addition to the required noticing under state law, typically the City also:

- Website: Has information on upcoming hearings about the matter on the City's website, typically on its own webpage.
- Postcard: Mails one postcard about proposed GPAs to every mailing address in Cupertino to inform the community about potential amendments and tentative hearing dates. This also includes the web URL for the project which allows signing up for e-notifications.

Municipal Code Amendments (MCAs)

Sections 19.12.110 and 19.12.030 require the City to follow the requirements of Government Code Sections 65853-65857. Similar to the requirements set forth for GPAs, these sections of the Gov. Code require noticing pursuant to Govt. Code Sections 65090, and if a MCA would affect the permitted uses or intensity of uses of real property, additionally, notice is required pursuant to Government Code Section 65091. The requirements for notice under these sections of state law are summarized in the Section above related to GPAs.

In addition to the required noticing under state law, typically the City also provides the information on a website with project information, and information about upcoming hearings as noted above.

Development Proposals

Section 19.12.110 identifies noticing requirements for all development proposals (including GPAs and MCAs described above), while Table 19.12.030 identifies the

radius for required mailed notices. The Municipal Code allows staff to increase the required radius noticing depending on the scale of the project. Noticing requirements can be divided into published and mailed notices, and site signage. These are summarized below:

- Published and mailed notices: The type of published and/or mailed noticing depends on whether a development proposal requires a Public Hearing, a Public Meeting or a Comment Period pursuant to Table 19.12.030.
 - *Public Hearing* noticing must be provided pursuant to Government Code Sections 65090 and 65091 (described above).
 - *Public Meeting* noticing must comply with the requirements of Government Code Section 65091.
 - *Comment period* noticing must comply with the requirements of Government Code Section 65091, except that the timing of the notice must allow for a 14 day comment period.
- Site Signage: Site signs are required for most development projects as identified in Table 19.12.030, prior to any decision being made for a project. For larger development projects the signs need to be four-foot by six-foot in dimension and attached firmly to two 5-foot tall posts. For Residential Design Review, Minor Ministerial Permits (units pursuant to SB 9) and Tree Removal Permits in R1 or R2 zoning districts, the site sign must be three feet by two feet in size.

Preliminary Applications

Preliminary Applications can be divided into two categories: SB 330 preliminary applications and other preliminary applications.

- SB 330 preliminary applications: Under state law, cities are required to accept preliminary applications, commonly known as SB 330 Preliminary Applications, from applicants, which allow them to vest development standards, policies and fees as of the date of the pre-application.¹ The City only needs to accept the submittal of an SB330 Preliminary Application. Because this is not a formal application and does not involve any determination or decision by the City, no noticing is required under the Municipal Code, or by state law.
- Pre-application review: Pre-application review (as opposed to a preliminary application under state law) is provided as a voluntary process/service for applicants and is neither a requirement of the Municipal Code nor state law.

¹ More information about SB 330 and the Preliminary Application process can be found online here: <https://www.hcd.ca.gov/planning-and-community-development/statutory-determinations>

These are not formal project applications and do not result in any decision on a project by the City; therefore, no noticing is required.